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WITHDRAWN

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The Solicitors' Journal

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The Solicitors' Journal

VOL. LXXVIII. **Saturday, June 23, 1934.** No. 25

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Current Topics.

Gratuitous Service.

More than once we have called attention to the readiness of those who, after years of judicial work and thus earned a well-merited rest, have responded to the call to resume for a time their old places in the courts with the object of assisting in clearing off accumulating arrears in the lists, or to sit as members of the Judicial Committee to perform a similar task. As many will recall, the late Mr. Justice Channell returned to the courts and to the Judicial Committee several times after his retirement, besides undertaking other duties in order to serve the State; so, too, did the present Lord Darling; and now we have Lord Merrivale, who recently demitted his high office of President of the Probate, Divorce and Admiralty Division, which he held with such distinction, back in the court so long familiar to him, grappling with the long list of defended probate and divorce cases which, owing to some of them being extremely protracted, had got somewhat into arrear. Service to the State such as this, like so much else performed by public men, may not make a very potent appeal to the man in the street, but it is well that he should be periodically reminded of the many gratuitous services rendered by our ex-judges in order to keep the lists from getting unduly into arrear. To those who undertake such duties without reward, and solely in the interests of the public, the nation owes a deep debt of gratitude which, however, is not always paid with that alacrity which the service merits.

Proof of Injuries in Liquidation.

Individual hardships sometimes arise, even in these days of third-party insurance, from the application of s. 30 of the Bankruptcy Act, and s. 262 of the Companies Act, 1929, both of which provide (*inter alia*) that demands in the nature of unliquidated damages which arise otherwise than by reason of a contract, promise or breach of trust are not provable in bankruptcy or insolvent company liquidation. A way out of the impasse was recently indicated by Mr. Justice Eve in *Re Great Orme Tramway Co.* (*The Times*, 8th June), in which a passenger was severely injured owing, it was alleged, to the negligence of the debtor tramway company. The company had paid £60 on account of the passenger's out-of-pocket expenses, which amounted to £200. The accident occurred in August, 1932, and an order for compulsory liquidation of the company was made on 24th July, 1933, and a liquidator appointed in September. In August, 1933, a proof for debt was lodged on behalf of the passenger claiming £3,140 damages for negligence. In November, 1933, another proof was lodged claiming the same amount as damages for breach of contract to carry her safely and securely on the journey. The liquidator rejected this and other proofs lodged in respect of the same accident, and the passenger took out a summons to review the rejection. Mr. Justice Eve allowed the applicant to substitute the proof based on contract lodged in November for the proof in tort of August. There are numerous authorities to the effect that a passenger can recover damages for breach of the contract of safe carriage (*Austin* v. *G.W. Railway Co.*, L.R. 442; *Thomas* v. *Rhymney Railway Company*, L.R. 6, Q.B.266). There is also abundant authority for the proposition that where a proof can be based either on tort or on contract, the tort can be waived and the claim can be based on the contract. The tort can be waived at a very late stage. In *Re Hopkins; ex parte Stedingk* (1902) 86 L.T.R. 676, a person with whom goods were deposited under a verbal contract of bailment wrongfully sold the goods. An action based solely on detinue and conversion was begun, but before judgment a receiving order was made against the defendant, of which the plaintiff had notice. Judgment was then signed against the debtor, but it was held that on the plaintiff undertaking to stay all further proceedings and abandon the judgment she could prove for damages for breach of contract. There are still, unfortunately, many cases of injury and loss which are not covered by third-party insurance, and in some of these the principle in *Re Great Orme Tramways Company* can be applied with useful results.

"Holy Deadlock" and Contempt.

We do not know whether the author and publishers of "Forensic Fables" and its successors felt any concern at the news that a member of the House of Commons was to ask the Attorney-General "whether his attention had been drawn to a book entitled 'Holy Deadlock,' wherein His Majesty's Judges and Courts, and the legal code they administered in matrimonial causes, were held up to public ridicule and contempt; and whether it was proposed to take any action in the matter." For, unless ridicule and contempt of the divorce law be particularly objectionable, it seems that action against the author and publishers aforesaid is long overdue. As to what action could be taken, neither the question, nor the answer given, afforded enlightenment; for Sir Thomas Inskip's reply that "the book in question was a work of fiction" and was "not such as to require any action on his part," seems to deal with the part of the question which affected judges and courts rather than with the position of the code. There certainly seems to be no reason (now that the Medes and Persians are no longer with us) why a code should not be criticised. If it may be criticised, works of fiction perform the task effectively; there is little doubt that the

writings of CHARLES DICKENS brought about more reforms than those of JEREMY BENTHAM, and this though the latter gave us constructive proposals as well as destructive criticism. And if novelists may criticise the law, ridicule is surely a fair and recognised medium. Whether it is as effective a weapon as it is said to be is another question; it is, indeed, arguable that more has been achieved by those chapters in DICKENS' novels which provoke tears than by those which provoke mirth.

Solicitor-Trustees and Profit Costs.

A RECENT decision of EVE, J., in *In re Hill, Claremont* v. *Hill* (18th May), is of importance to the profession as upholding the rule laid down by CLAUSON, J., in *In re Gates, Arnold* v. *Gates* [1933] Ch. 912, that a solicitor-trustee who has no power under the instrument creating the trust to charge profit costs cannot put his firm into a better position by instructing them to do the work, and that the firm in such circumstances can only charge their clients with actual out-of-pocket expenses. His Lordship, on the facts of the case, was unable to distinguish it from *In re Gates*. But we understand that there is a possibility that *In re Hill* may be brought before the Court of Appeal, with a view of getting the decision in *In re Gates* reviewed or distinguished. The plaintiff in this case was the senior partner of a firm of solicitors, there being two other partners, but he had virtually retired from all active business, and in lieu of any share in the profits was entitled to a fixed annuity. The affairs of the trust of which he was trustee had for a long time been attended to by one of the other partners who had managed the whole of the business preliminary to and of proceedings taken by originating summons, except that the plaintiff had written one or at most two letters. The taxing master, on taxation, disallowed all profit costs on the ground that the plaintiff had employed his own firm as his solicitors, and EVE, J., dismissed an appeal from the master's decision on the ground that he was bound by *In re Gates* so to decide. The general rule, which CLAUSON, J., applied, was laid down by Lord CRANWORTH in *Broughton* v. *Broughton*, 5 De M. & G. 160, to the effect that no person in whom fiduciary duties are vested can make any profit out of them, because in doing so he could not perform one part of his trust, namely, that of seeing that no improper charges were made. But in *Clack* v. *Carlon*, 30 L.J.Ch. 639, it was decided that a solicitor-trustee might employ his partner as solicitor and pay him the usual charges, provided that it had been expressly agreed between them that the trustee should not derive any benefit from the profits. There was no such agreement either in *In re Gates* or in *In re Hill*, but whereas in the former case the solicitor-trustee was entitled to his share in the partnership profits, in the latter he had practically retired from business, and received only a fixed annuity. It could not be suggested that he could make a penny of profit out of the trust business done by his firm, even though the profits on which his annuity was secured might be increased, and it seems somewhat hard that because he happened to be a trustee, his partners who did the work should not be able to charge costs which would give them a reasonable profit. There was no real conflict of interest and duty.

Validity of Gift of Insurance Policies.

IN the recent case of *In re Crankshaw, deceased*, in the Manchester Chancery Court, the executors claimed (1) a declaration that six insurance policies formed part of the estate; (2) delivery up of three policies by the widow. The plaintiffs' case was that (*a*) the testator (having left his wife in 1927) died in 1932, and had bequeathed £200 to his wife and the residue to his children equally; (*b*) the policies were valued for probate at £2,588, but three had been pledged as security for loans of £804; (*c*) another £1,035 was owing for calls on shares, and the executors had submitted to judgment—subject to the existence of assets; (*d*) unless the policies constituted part of the estate, the latter was insolvent. The defendant's case was that (1) on giving her certain policies, the deceased had said: "If anything happens to me, these policies belong to you"; (2) he had also handed a policy to his daughter, with the words: "Give this to your mother to put with her other policies." The Vice-Chancellor (Sir COURTHOPE WILSON, K.C.) held that the testator had given the policies to the defendant, his intention being to give her also the policy moneys. Although the action failed, the plaintiffs were awarded costs down to defence, whereby the defendant's claim to the mortgaged policies was abandoned. The defendant was held entitled to retain the three policies still in her possession, and also to costs subsequent to delivery of defence. It was laid down in *Barton* v. *Gainer* (1858), 3 H. & N. 387, that a gift of a policy may be constituted by mere delivery, with appropriate declarations.

Public Trustee Report.

THE twenty-sixth General Report of the Public Trustee (covering the year ending 31st March last), which has just been published, shows a slight decrease in the number of new cases accepted during the year, but a substantial increase in the value of such cases. The number of new cases accepted was 994, as compared with 1,071 last year, but their total value, including accretions to existing trusts, was £14,833,329, as compared with £13,231,319 for last year. About 60 per cent. of these new cases were under £5,000 in value. The total number of trusts accepted since the office was instituted is 31,182, of which 12,601 have been completed, leaving 18,581 now under administration. The nominal value of the funds now held in trust is approximately £215,000,000, in addition to landed property of the estimated value of £50,000,000. The whole of these trusts is administered by a staff of 813 persons and a total expenditure of £279,599. The receipts of the Public Trustee for fees and miscellaneous credits amounted to £309,875, and there was a surplus on the year's working of £30,276. It is pointed out that this surplus is due principally to the general increase in capital values and to the continual exceptional activity in connection with investments, which have more than offset the substantial decline in the receipts from refunded stockbrokers' commission (resulting from its reduction by the London Stock Exchange from 50 per cent. to 33⅓ per cent.). The fees actually received were capital fees on acceptance of trust, £56,267; capital fees on distribution, £51,460; income fees, £99,159; investment fees, £65,345; and management fees and miscellaneous receipts, £36,399. It is interesting to notice that the only loss incurred during the year was one of £450 paid to a person wrongly regarded as having authority to receive the same. This loss has been charged to administration expenses and has not fallen upon the trust to which it related. The report is signed in the absence through serious illness of Sir OSWALD SIMPKIN by the two Assistant Public Trustees, Messrs. J. H. JACOB and R. S. SHUCKBURGH. It discloses the continued efficiency and usefulness of the office of Public Trustee which one has been led to expect in dealing with this Public Department.

The Law Society's Annual Report.

THE annual report of the Council of The Law Society for the year 1933-4, a résumé of which appears at page 448 of this issue, is a valuable record of the good work done by The Law Society and the provincial law societies during the past year. Solicitors who are members of The Law Society or of the provincial societies cannot fail to appreciate the splendid services rendered by these bodies on behalf of the profession, and a perusal of the report by those who have as yet abstained from joining should prove a strong encouragement to them to join forthwith, and so further assist by co-operation in the task of protecting the good name and interests of the profession.

Public Meetings on Private Premises. Police Right of Entry.

THE recent disturbances at Fascist meetings call to mind what the learned magistrate who dealt with some of the offenders referred to as amongst the most cherished traditions of this country, namely, freedom of speech and the right to hold public meetings. Both these rights and the limits of their exercise are too well known to need elaboration. Less certainty, however, exists as to the precise rights and duties which the police have of interfering with public meetings which are held on private premises, and there is a considerable body of opinion in favour of an extension of those rights and duties so as to ensure that the police shall not be hampered in any way in their efforts to deal with meetings which are or may be turbulent.

In a public place, of course, there is no question as to the powers of the police to deal with meetings. Private premises are, however, the property of the occupier, who is entitled to make such use of them as he may please, subject to the ordinary law. Accordingly, the police have, *primâ facie*, no legal right to enter such premises, and are, if they do so, in no better position than the ordinary trespasser. The very fact that the rights of constables to force open doors and the limitations of their powers apart from warrants for arrest or search warrants or in cases of felony have been so often defined is the clearest indication that, except in such cases, they have no right of entry. The law was very lucidly expounded by Lord Sterndale, M.R., and Atkin, L.J., sitting as a Divisional Court, in *Great Central Railway Company* v. *Bates* [1921] 3 K.B. 578. In that case one of the company's police constables who was on duty after business hours saw the door of the defendant's warehouse ajar. On going inside to see whether all was well he fell into a sawpit near the door and was injured. In an action by the company against the defendant to recover the compensation paid by the company to the constable, the question was whether the defendant owed the constable any duty to keep the premises safe. The court, on appeal from the county court, held that he did not, for the constable, though doing what was reasonable and proper, had no legal right to be on the defendant's premises. As Atkin, L.J., pointed out, it was not suggested that the constable suspected a felony or that there was a felon on the premises, nor was he armed with any warrant, nor was he in pursuit of any criminal who he thought might be on the premises. Apart from these cases, he had no right to enter, whether they were private or business premises, and was in fact in the same position as any ordinary person.

As the Home Secretary told the House of Commons, the police, having no right of entry to public meetings on private premises, it is not regarded as any part of their duty to interfere in such meetings, and they do not do so unless they are invited by the occupiers of the premises or the promoters of the meeting. Once this has occurred they take with them all their powers as constables, and, incidentally, may require payment for their services: *Glasbrook Brothers, Ltd.* v. *Glamorgan County Council* [1925] A.C. 270, per Viscount Cave, L.C., at p. 278.

By the Metropolitan Police Act, 1839, s. 64, a metropolitan police constable may arrest without warrant any person disturbing the public peace or whom he shall have good cause to suspect of having committed, or being about to commit, any breach of the peace. But there is nothing in the section to indicate, as the Home Secretary appears to have suggested, that it gives the police a right to enter private premises for the purpose, and therefore, it is submitted, the limitations on the right of entry remain the same as have been indicated above. The utmost extent of a constable's rights seems to be that he may, if he hears a violent quarrel within a house, break open doors to preserve the peace. Similarly, if there is an affray, of which the essence is that it is in a public place to the terror of the King's subjects, and the affrayers fly to a house, the constable may break open doors to take them if he follows them "with fresh suit." But in such a case there are grave doubts whether he may do either of these things without a magistrate's warrant, unless there are some circumstances of extraordinary violence; in other words, it is suggested, only where he has reasonable grounds to suspect the commission or probable commission of a felony.

There are, of course, civil remedies available to those who deem themselves injured by the unreasonable use of force by those acting as stewards at such meetings. Moreover, as the Home Secretary indicated, if the promoters of meetings could no longer be relied on to restrain their stewards from acts of violence, it might be necessary to review the whole policy of police action in the case of such meetings. As far as the interrupters are concerned, there is, as the learned magistrate pointed out, the Public Meeting Act, 1908, too seldom enforced, making it an offence to act, or incite another to act, in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together. The Act does not limit "public meetings" to meetings held in public places, but unfortunately it does not give the police any right to enter private premises where meetings are being held. It may be for this reason that the Act has been so little enforced. In any event, there would appear to be good grounds for considering an early amendment of the law so that not only interrupters, but also over-violent stewards, may be suitably dealt with.

A Supplemental Divorce Petition.

"IT would be making a technicality," said the President of the Probate, Divorce and Admiralty Division in *Sandler* v. *Sandler, Davies and Johnstone* (78 SOL. J. 300), "to import into a supplemental petition the taint of collusion which would be absent if a new petition was filed." Nevertheless, on an appeal from the judgment of the President in this case, the Court of Appeal on 8th May, 1934 (78 SOL. J. 383), imported that technicality and reversed the President's decision.

The short facts were that in a petition by the husband on 20th March, 1933, adultery was alleged against the respondent with D in February, 1933. On 22nd June, 1933, the petition was amended so as to charge the respondent with adultery with J between December, 1930, and July, 1932. By a supplemental petition dated 9th June, 1933, adultery was alleged with J in April, 1933, and damages were claimed against J. The respondent did not defend and gave evidence on behalf of J. She alleged that the original petition was presented in collusion with the petitioner.

The President found as a fact that that petition, filed before the discovery of the alleged adultery with J, was collusive, and dismissed it. He, however, held that the prayer in the supplemental petition was untainted with the statutory bar, and therefore granted a decree *nisi* on that prayer with costs against J, and the custody of the child, and ordered that the sum of £2,500 awarded by the jury be paid to the petitioner. J appealed, and there was a cross-appeal by the petitioner against the decision as to collusion.

The Master of the Rolls stated that the court was bound under s. 178 of the Supreme Court of Judicature (Consolidation) Act, 1925 (formerly s. 30 of the Matrimonial Causes Act, 1857), to dismiss a petition which it finds to have been presented or prosecuted in collusion with either of the respondents. His lordship was unable to interfere with the finding of the President that there had been collusion. With regard to the supplemental petition his lordship referred to the authorities and said that the supplemental petition could not be severed from the petition, but must be treated as part

of and an addition to the original petition, and must stand or fall with it. As the original petition was collusive, both it and the supplemental petition must be dismissed and the verdict for damages could not therefore stand.

Smith v. *Smith*, 3 Sw. & Tr. 216, decided that it was unnecessary to serve an amended petition by advertisement when the original petition has been served in this way, as only the citation was advertised, and the citation did not specify charges of adultery. This rule would probably apply to supplemental petitions. *Borham* v. *Borham* (1870), 2 P. & D. 193, merely decides that a supplemental petition alleging adultery after the original petition will be consolidated with the original petition. In *Lapington* v. *Lapington*, 14 P.D. 21, Butt, J., said: "In principle, I do not see any difference between amending a petition by adding new charges and filing a supplemental petition." It was held in that case that where a petitioner alleged adultery coupled with cruelty, and two years after the presentation of the petition leave to amend was obtained by adding desertion for two years and upwards commencing from a date two months before the presentation of the petition, the charge of desertion could not be entertained, as the cause of action did not exist when the suit was commenced. *Scharrer* v. *Scharrer* (*The Times*, 7th July, 1909), is also a strong authority in support of the decision of the Court of Appeal, it being held in that case that leave to file a supplemental petition could not be granted where application was made twenty years after the filing of the original petition, and a reconciliation had been effected, the original petition having been left in the list by an oversight. The President also referred to Directions 69, 71 and 74 of the Registrar as supporting his decision that the supplemental petition and the petition are to be regarded as one. It is clear in these directions that the two documents are treated together and not separately.

The authorities give strong, though hardly direct, support for the decision of the Court of Appeal. There appears little doubt that had a fresh petition been served it would have been successful, and many will regard the petitioner in this case as a victim of a somewhat harsh technicality of the present law of divorce

Unnecessary Costs.

A CASE of some importance on the question of costs, which was decided by the Court of Appeal on 12th March of this year, has just found its way into the Law Reports. It bears a well-known name—*The Edison* (No. 2) [1934] P. 115—and in order to appreciate the point decided, it is necessary to recall the previous litigation.

It all began by the sinking of the plaintiffs' dredger, the "Liesbosch," by the defendants' "Edison," in November, 1928. The "Liesbosch" had been bought for £4,000, and it had cost a further £2,000 to take her to Patras. At the time of the loss she was carrying out a very important contract and was insured for £5,500. It is unnecessary to recapitulate here the steps which the plaintiffs took on the loss, such as hiring a dredger for a time. Suffice it to say that, when they came to formulating a claim against the "Edison" they succeeded in getting it up to £23,500. Judgment was given by Langton, J. ([1931] P. 230), confirming a reference awarding the plaintiffs £19,000 odd. On appeal, the Court of Appeal held that the judge had adopted a wrong principle and assessed the damages at £9,000 ([1932] P. 52). Ultimately the House of Lords sent the case back for a second reference with a direction as to the principles to be followed in assessing the damages ([1933] A.C. 449), and on the second reference the registrar awarded the plaintiffs £11,000 odd.

The result of these activities was that a certain amount of costs had been incurred, and in particular the defendants were ordered to pay the costs of the reference. The plaintiffs accordingly put in a claim for all the costs of proving the claim on the original basis, which the House of Lords had held to be wrong. Objection was not unnaturally taken to this, and ultimately the taxing master disallowed such of the costs as were applicable to the wrong basis, saying that such costs were "Not necessary or proper for the attainment of justice." In other words, he acted under Ord. LXV, r. 27, sub-r. (29). In this way the plaintiffs' costs were diminished from £1,900 odd to £654. The plaintiffs appealed to Langton, J., on the ground that costs could not be said to be unnecessary if a case had to be taken to the House of Lords in order to decide the true basis of the damage. Their appeal was, however, dismissed. Whereupon it occurred to the defendants that they had been put to expense by having to meet a case framed on a wrong basis, and sought to recover from the plaintiffs the costs which they had so incurred. Regardless of the pious hope expressed by Lord Wright (1933, A.C., at 469) that "The parties may now compose this remaining difference without further proceeding in the Registry," and with a pertinacity which has from the beginning characterised this litigation, confined as it was to amount, with no dispute as to liability, the defendants took this question to the Court of Appeal.

The rule on which they relied was Ord. LXV, r. 27, sub-r. (20), which falls into four main sections. First it provides that "The court or a judge may at the hearing of any cause . . . direct the costs of any . . . evidence . . . which is improper vexatious unnecessary . . . to be disallowed." There had been no such direction in this case. Secondly, the rule provides that the court or a judge "May direct the taxing officer to look into the same and to disallow the costs thereof or of such part thereof as he shall find to be improper unnecessary vexatious . . ." There had been no such direction in this case. Thirdly come the effects if a party's costs are disallowed after such a direction, namely "And in such case the party whose costs are so disallowed shall pay the costs occasioned thereby to the other parties." Fourthly comes that part as to which the difficulty arose: "And in any case where such question shall not have been raised before and dealt with by the court or judge, it shall be the duty of the taxing officer to look into the same . . . for the purpose aforesaid, and thereupon the same consequences shall ensue as if he had been specially directed to do so."

The argument for the defendants was that the taxing officer having disallowed part of the plaintiffs' costs under sub-r. (29), was entitled to order, as in fact he did order, that the defendants should recover from the plaintiffs the costs occasioned to them, by virtue of sub-r. (20). If successful it would have revolutionised the whole practice with regard to taxation. It would mean in effect that, wherever a plaintiff failed to substantiate some part of his claim, not only would he be unable to recover the costs proportionate to that part, but he would have to pay the costs of the other side. Instead of merely lessening the successful party's bill which he had been ordered to pay, the unsuccessful party would himself be able to put in a bill of his own against a party who had not been ordered to pay any costs at all, and thus get a very useful set-off. Moreover, if the argument was right, two further results, of a somewhat startling nature, would be attained. In the first place sub-r. (29) would be rendered entirely otiose. Everything which hitherto had been regarded as coming within that rule would in future be covered by sub-r. (20). Secondly, there would seem to be no necessity for a successful defendant to ask for an order for costs at all. He would simply have to invite the taxing officer to look into the question of unnecessary evidence, etc., and procure from the taxing officer an order that his costs be paid.

Needless, perhaps, to say, the Court of Appeal rejected an argument of such a subversive character. But considerable difficulty was caused by the wording of the two rules. What difference could there be, on the strict wording of the rules, between costs which were not "necessary or proper for the attainment of justice" within the meaning of sub-r. (29),

and costs which were "improper, unnecessary, vexatious" within the meaning of sub-r. (20)? The presence of the same word "necessary" as a test seemed to form a bond between the two sub-rules. The difficulty was solved by saying that the word "unnecessary" in sub-r. (20) had to be construed by reference to its context, that is to say, its propinquity to the words "improper," "vexatious" and "misconduct." The sort of thing aimed at, in the words of Scrutton, L.J., is piling up costs, a recklessness in incurring costs which can rightly be termed improper.

Another way of putting it, as expressed by Greer, L.J., is to say that it is a condition precedent to the application of the latter part of sub-r. (20), that there should have been a disallowance under the first part of sub-r. (20). It is true that the rules must be read as a whole (see *Cavendish* v. *Strutt* [1904] 1 Ch. 524 at 530), but nevertheless the mind of the taxing officer must be directed to sub-r. (20), and to the consequences therein mentioned. To consider whether a party should be allowed certain costs, and to consider whether he should be ordered to pay certain costs are, after all, two very different things.

Scrutton, L.J., suggested, and it is to be observed that his colleagues agreed with his judgment, that "a taxing officer ought not to order a party whose costs he strikes out under sub-r. (29) to pay to the other party the costs occasioned to the latter by matters in respect of which costs have been disallowed, unless he has an order of the court to that effect." The suggestion is confined to action under sub-r. (29), but it is somewhat difficult to see how it is to be fitted in with the explicit direction contained in the last part of sub-r. (20) to the taxing officer to act of his own motion. The learned Lord Justice said that that seemed to him to draw a clear distinction between the two sub-rules and that "on that view . . . the assistant registrar . . . was not justified in . . . holding under sub-r. (29) . . . that the defendants were entitled to recover . . . the costs occasioned." It is difficult to follow this suggestion because there is no power under sub-r. (29) to hold any such thing, and a direction by a judge could not insert such a power in the sub-rule. It is only under sub-r. (20) that the taxing officer has such a power, and by the express words of that sub-rule he can exercise the power without any direction from a judge.

Company Law and Practice.

Fraudulent Preference.

As was pointed out in this column last week, the operation which is referred to as fraudulent preference is not one which is necessarily ethically blameworthy; but the name is derived from statutory authority. A case recently decided by the House of Lords has some considerable importance in connection with fraudulent preference, and it therefore seems a convenient time to re-examine the question once more, even though it suffers from being misnamed.

A fraudulent preference is, at the present time, solely dependent on the relevant statutes, though previously to the passing of the first of the Bankruptcy Acts which dealt with it, there was, at common law, a doctrine of a somewhat similar kind. So far as I know, however, that common law doctrine had never been applied to the liquidation of an insolvent company. The present relevant statutory provisions are s. 265 of the Companies Act, 1929, and s. 44 of the Bankruptcy Act, 1914. Section 265 (1) and (2) are as follows:—

> "265. (1) Any conveyance, mortgage, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference shall, if made or done by or against a company, be deeemd, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.
>
> "(2) For the purposes of this section, the commencement of the winding up shall be deemed to correspond with the presentation of the bankruptcy petition in the case of an individual."

Pausing there a moment, may I just remind my readers that in a winding up by the court the commencement of the winding up is the time of the presentation of the winding up petition, unless a resolution for voluntary winding up has previously been passed, in which case it is the time of the passing of the resolution (s. 175). In the case of a voluntary winding up, it is the time of the passing of the resolution for voluntary winding up (s. 227).

It is now necessary to see what acts are to be deemed in the bankruptcy of an individual to be a fraudulent preference. The answer is supplied by s. 44 of the Bankruptcy Act, 1914, which reads as follows:—

> "44. (1) Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered by any person unable to pay his debts as they become due from his own money in favour of any creditor, or any person in trust for any creditor, with a view to giving such creditor, or any surety or guarantor for the debt due to such creditor, a preference over the other creditors shall, if the person making, taking, paying or suffering the same is adjudged bankrupt on a bankruptcy petition presented within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against the trustee in the bankruptcy."

It will be noticed that, whereas the recent legislation prolonged the time for upsetting a floating charge from three months to six months (s. 266 of the Companies Act, 1929, *vice* s. 212 of the Companies (Consolidation) Act, 1908), it has left untouched the fraudulent preference time, which is, therefore, still three months. If it was considered desirable to extend the time in one case, there seem to be grounds for saying that it ought to have been so considered in the other case. However, it was not, and we are therefore left with this little anomaly, which has misled the writer of at least one text-book.

Such being the statutory provisions on the point, let us turn to the recent decision which prompted the subject of this article, *Peat* v. *Gresham Trust, Ltd.* [1934] A.C. 252, reported below under the name *Re M.I.G. Trust, Ltd.* [1933] 1 Ch. 542. It is in a way rather disappointing that two questions on the construction of s. 265, though raised, are not disposed of by the decision. I will advert to these two questions again later in this article. First let us ascertain the facts as shortly as possible.

M.I.G. Trust, Ltd., was formed in the year 1910 by Sir Arthur Wheeler for carrying on the business of dealing in shares in association with the business of Arthur Wheeler & Co. The only two directors of the M.I.G. Trust at all material times were Sir Arthur Wheeler and Mr. P. Wheeler, the latter of whom was also managing director of the Gresham Trust, Ltd., the respondents in the House of Lords. On the 6th May, 1930, the M.I.G. Trust, Ltd., deposited with the Gresham Trust, Ltd., the title deeds of certain freehold property of the M.I.G. Trust to secure sums of money owing from the M.I.G. Trust to the Gresham Trust.

Now this operation, as Macaulay's schoolboy would know, required registration by virtue of s. 79 of the Companies Act, 1929, and, in default of such registration, it was void against the liquidator and the creditors of the company. But the omniscience of that paragon was not apparently shared by everybody concerned in this transaction, for particulars of the charge were not registered within the time required by the statute. On the 3rd March, 1931, the firm of Arthur Wheeler & Co. (consisting of Sir Arthur Wheeler and one

other) was adjudicated bankrupt, whereupon other things material for the purposes of this case began to happen. Mr. Wheeler, as one of the directors of M.I.G. Trust, consulted that company's solicitors as to its position, and they drafted resolutions for voluntary winding up.

On the day following the adjudication, namely, the 4th March, 1931, Gresham Trust, Ltd., commenced proceedings under s. 85 of the Companies Act, 1929, asking for an extension of the time for the registration of the charge created by the deposit of title deeds above referred to, to which proceedings M.I.G. Trust, Ltd., were respondents. Mr. Wheeler instructed the solicitors to the M.I.G. Trust to bring to the notice of the court the position of affairs, and they instructed counsel, giving him, in his brief, certain information which may be summarised as follows: (1) the liquidation of M.I.G. Trust was inevitable; (2) that Gresham Trust had lent large sums of money to M.I.G. Trust on the deposit of securities; (3) that Mr. Wheeler was merely a nominal director of M.I.G. Trust and knew nothing of its operations except the loan transactions with Gresham Trust, and that counsel would appreciate that his position was a difficult one; (4) that M.I.G. Trust's creditors would be prejudiced by the registration of the charge, and that Mr. Wheeler felt these facts should be brought to the knowledge of the court.

The hearing of the Gresham Trust's application was adjourned, and between the first hearing and that on which Maugham, J., as he then was, made the order next referred to, Mr. Wheeler, on behalf of M.I.G. Trust, withdrew their instructions to their solicitors. On the adjourned hearing no counsel appeared for the respondents, and Maugham, J., made an order in the usual form, extending the time for registration, "without prejudice to the rights of parties acquired prior to the time when such mortgage or charge shall be actually registered." The charge was actually registered on the day of the order, the 10th March, 1931, and on the 31st March, 1931, an order for compulsory liquidation was made.

The liquidator then took out a summons asking for a declaration that the proceedings before Maugham, J., and the order made by him constituted an undue and fraudulent preference of the Gresham Trust over the other creditors of M.I.G. Trust. Looking back at the wording of s. 34, it will be observed that the relief asked for could only be granted if the court was satisfied (1) that a judicial proceeding such as an application to extend the time for registration is an "act relating to property" within the meaning of s. 265 of the Companies Act, 1929, and (2) that what was done by M.I.G. Trust was suffering a judicial proceeding within the meaning of s. 44 of the Bankruptcy Act, 1914. The Court of Appeal and the House of Lords made assumptions (without deciding the points) in favour of the contention of the liquidator on both these two points, because there was another ground on which both tribunals held that the liquidator could not succeed.

On the first point there would seem to be a good deal to be said for the contention that a proceeding of this nature was an act relating to property done against the company; it can hardly be denied that the giving of a charge on the property of a company is the doing of an act relating to property by the company; is it not reasonable to follow that up by saying that an act designed to make that charge effective as against the liquidator of the company and its creditors is an act done against the company, at any rate in the case where that act is a judicial proceeding to which it is necessary to make the company a respondent?

On the second point, the contention of the liquidator seems to be rather more questionable, and turns, no doubt, on the meaning of the words "suffered in favour of a creditor with a view to giving the creditor a preference." In the ordinary way, of course, the company has no answer to an application of this sort—indeed, the company itself is usually the applicant. The answer to this second point perhaps turns, then, on what the attitude of the court is to applications to extend the time for registration where the company is insolvent and on the verge of liquidation. This attitude has never yet been clearly defined, and Lord Tomlin, in the course of argument in the House of Lords, says that if Maugham, J., had known the facts which it was originally proposed should be put before him, he might have thought them irrelevant, and he could have exercised his judicial discretion. As to the protection of unsecured creditors under s. 85, those interested may care to look at *Re Cardiff Workmen's Cottage Co.* [1906] 2 Ch. 627. But in the case where the company cannot successfully resist the application it seems difficult to say that the company is suffering a judicial proceeding with a view to giving a preference. The House of Lords in the present case made the further assumption that the direct and necessary result of the withdrawal of the instructions was the making of an order extending the time which would not otherwise have been made; even then, it was held that the liquidator had not discharged the onus, which was on him, to show that the dominant intention to prefer was present, and that it was not possible in the circumstances to infer such an intention.

A Conveyancer's Diary.

Orders made under the Lunacy Practice: S.L.A., s. 35. (2).

I HAVE been considering s. 35 of the S.L.A., with especial reference to the practice which appears to obtain in the Lunacy Office and seems to be wrong.

It is essential in order to understand the section to bear in mind what is the obvious purpose and intention of it.

Sub-section (1) enacts that whenever a new trustee for the purposes of the Act is appointed or a trustee discharged "a deed shall be executed supplemental to the last or only principal vesting instrument containing a declaration that the persons therein named . . . are the trustees of the settlement for the purposes aforesaid."

Then sub-s. (2) reads:—

> "Every such deed as aforesaid shall, if the trustee was appointed or discharged by the court, be executed by such person as the court shall direct and in any other case shall be executed by . . . ."

I need not continue.

The whole idea of the section is to have some instrument executed by the direction of the court or by some other person which shall have the effect of declaring who the trustees for the purposes of the Act are, and that that deed shall be conclusive. That is apparent from sub-s. (3):—

> "A statement contained in any such deed of declaration as is mentioned in this section to the effect that the person named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement is unable or unwilling to act, or that a trustee has remained outside the United Kingdom for more than twelve months or refuses or is unfit to act, or is incapable of acting, shall in favour of a purchaser of a legal estate be conclusive evidence of the matter stated."

It is most important from the point of view of a purchaser that the Act should be strictly complied with, but I do not find that this is always done when a new trustee is appointed in the place of a person of unsound mind in respect of whose estate a receiver has been appointed under s. 116 of the Lunacy Act, 1890, as amended by the Act of 1908.

I may be wrong, but I think that it has generally been thought sufficient in such cases for the Master in Lunacy to make an order authorising and directing the receiver to execute a vesting deed—that is, I think, unfortunate.

The order should be by "the court," and I do not see any authority for the Master in Lunacy being able to exercise the authority of "the court" within the meaning of s. 35 of the S.L.A.

In that state of things I am afraid that many orders may have been made which do not protect a purchaser, but may lead him to think that he has the protection afforded by an order of court.

The blame for this must rest, to some extent at any rate, upon the Master in Lunacy or the officials for whom he is responsible, although, no doubt, the advisers of a purchaser ought to know and should not rely upon orders which do not give the protection contemplated by s. 35.

Then there is a further point. It is not of much use to a purchaser to find an order made in the matter of the lunatic or person of unsound mind or in the matter of the will or settlement. The order ought specifically to refer to the property settled, either by some sufficient description or by reference to some earlier vesting instrument. That, I believe, is not always done—and it is important.

I think that it is best to describe the property and to state in so many words that the new trustees are the trustees of that property for the purposes of the Act. It may, however, be sufficient to refer to a former vesting instrument without repeating any description.

How the matter is intituled is for the Lunacy Office to decide, I suppose, but I may say that the mere heading in the matter of the patient or the trusts of the will of the settlor, or some such heading, is not at all satisfactory from a purchaser's point of view. There may have been other documents constituting a compound settlement, or there may have been a resettlement, and so on. The order itself, however, whatever may be the title under which it is made, should refer to the first and only vesting instrument and to the property comprised in it, and should, of course, recite any subsidiary vesting deeds which may have been executed.

I draw attention to this because I think that the practice in the Lunacy Office should be revised. Often orders made will be sufficient, but sometimes that may not be so and one of these days there will be trouble about it!

Landlord and Tenant Notebook.

Wilchick v. *Marks*: **I.—Landlord's Liability to Tenant.**

THE decision in *Wilchick* v. *Marks and Silverstone* (*Silverstone, Third Party*) (1934), 50 T.L.R. 281; 78 SOL. J. 277, lays down two rules which may have come as a surprise to many of us. They are: (1) When a landlord of premises within the Increase of Rent etc. Acts, let by an agreement entitling him to repair, increases the rent by 40 per cent. of the net rent (as permitted by s. 12 (1) (*e*) of the 1920 Act) on the ground that he is liable for all the repairs, he does not thereby render himself liable to the tenant to effect repairs; and (2) when a third party is injured owing to the defective condition of premises occupied under a tenancy agreement which does not impose liability to repair on either party thereto, but which have been kept in repair by the landlord, the third party is entitled to sue both landlord and tenant.

The facts were that the plaintiff was struck by a wooden shutter that fell from the premises, a shop and dwelling-house, as she walked by. The top hinge of the shutter had been broken some months ago. Both the first defendant and the second defendants knew of the defect. The first defendant was occupier and statutory tenant of the premises. He had held them on a weekly tenancy since March, 1914. He had then been told (the tenancy being verbal) that he was not required to repair. The rent book contained a statement that the landlord might enter at any reasonable time for the purposes of inspection and repair. The rent had been increased to the maximum permissible, including the 40 per cent. increase. The second defendants and third parties were the first defendant's landlords.

In this article I propose to deal with the first of the two propositions stated above.

The first defendant's contention was that the second defendants were liable to him to keep the premises in good and tenantable repair, and, the accident being due to their failure to observe that obligation, he was not liable to the plaintiff; alternatively, he was entitled to indemnity from the second defendants, which he claimed by his third party notice.

His case was put in this way: the landlords have increased the rent on the footing that they are liable for all the repairs, and cannot therefore be heard to say that they are not so liable. Further, the Acts (s. 2 (5) of the 1920 Act and s. 18 (5) of the 1923 Act) enact that when the tenant is under no express liability to repair, the landlord is deemed to be liable. While, apparently, considering this argument a strong one, Goddard, J., felt it was his duty to follow the *dicta* of the Court of Appeal in *Morgan* v. *Liverpool Corporation* [1927] 2 K.B. 131, C.A., which was an action by a statutory tenant injured by the fall of a window secured by a defective window sash-cord, and which was decided against him actually on the ground that the landlords were ignorant of the defect, but in which this question of liability, by reason of the Increase of Rent Acts, 1920 and 1923, was examined at length.

It was then urged before the Court of Appeal that, as the provision in the Housing Act, 1925, s. 1, by which landlords of working-class dwellings are made responsible for the fitness of the premises had been held (first, in *Walker* v. *Hobbs* (1889), 23 Q.B.D. 458) to import a covenant and condition into the tenancy on which the tenant could sue his landlord in the ordinary way, so these provisions imposed a contractual liability upon the landlord. But Lord Hanworth, M.R., declined to recognise any such implication, pointing out that the objects of the two Rent Acts were very different from those of the Housing Act, while Atkin, L.J., expressed his view of the objects of the Rent Act provisions as follows: "Suppose you are seeking to ascertain whether the landlord may increase rent or not, i.e., is responsible for the whole of the repairs or part of the repairs, the Act says, 'for the purposes of this section the landlord is deemed to be responsible for any repairs for which the tenant is under no express liability' . . . That appears to me to be very far from creating a statutory liability on the landlord to the tenant . . . . We want to define the state of circumstances which by the Act is a condition precedent to the right of the landlord to increase the rent . . . Now, in the ordinary case, in the bulk of the cases which come within the Increase of Rent etc. (Restriction) Acts the landlord is under no contractual obligation to do any repairs at all; *nobody has contracted to do any repairs.*"

I have underlined the last words cited because I wish to submit that, both in *Morgan* v. *Liverpool Corporation* and in *Wilchick* v. *Marks*, it seems that an opportunity was missed of obtaining an authoritative pronouncement on the extent of the duty of a tenant holding from year to year or less, whose agreement is silent on the subject of repair, to look after the premises. It is a matter for regret that in both cases the landlord's attitude was purely defensive, and that he did not carry the war into the tenant's camp by counter-claiming on an implied covenant to repair or to use in a tenant-like manner; for if the two sub-sections do not estop the landlord who has imposed the increases, neither can they avail the tenant.

I do not say that the *obiter dicta* and judgment would necessarily have been in the landlord's favour, for the extent of the duty is ill-defined, but they would have dealt with the point and might have settled it. The authorities are very numerous and cannot be all discussed here; but I think it is fair to say that they fall roughly into two groups, one of

which favours the view that under a periodic tenancy, or tenancy at will, the tenant's obligation is substantially negative, i.e., he is to use the premises in a tenant-like manner and need only repair what he has broken, if anything; the other group contains all those decisions in which "keep the premises wind and water tight" may be said to express the position.

The first and most cited of the former is *Ferguson* v. *Anon* (1797), 2 Esp. 590, in which Lord Kenyon said: "A tenant from year to year is bound to *commit* no waste, and to make fair and tenantable repairs, such as putting in windows and doors that have been broken *by him*, so as to prevent waste and decay," and disallowed a claim for a new roof, brought against a tenant at will. This was followed, *inter alia*, in *Horsefall* v. *Mather* (1815), Holt N.P. 7, the landlord having claimed against a yearly tenant not only for removal of fixtures, but also for refitting the premises. In *Gibson* v. *Wells* (1805), 1 Bos. & P.N.R. 290, Lord Mansfield said that a tenant at will could not be sued for failure to repair a broken window.

On the other side, the earliest case to support the contention of duties unqualified by reference to the tenant's own behaviour would at first sight appear to be *Cheetham* v. *Hampson* (1791), 4 T.R. 318, an action by a stranger to the tenancy who was injured by a defective fence and sued the landlord. It was held that the landlord was not liable, as a landlord may maintain an action for non-repair of fences against a yearly tenant despite the absence of express covenant; but the reason why I hesitate to assign this decision to the second group is that it was the decision of Lord Kenyon (who decided *Ferguson* v. *Anon*), and the judgment goes on to speak of "injury to the inheritance," which suggests that the real ground was the duty of a tenant to preserve boundaries, a duty to which great importance was attached in those days, and which would override any limitation of liability to commissive waste.

But in *Auworth* v. *Johnson* (1832), 5 C. & P. 238, we find Lord Tenterden, C.J., remarking: "A tenant from year to year is to keep the premises in a little order, and they say that you, the tenant, have done nothing," which clearly suggests something more than liability for positive ill-treatment; in *Leach* v. *Thomas* (1836), 7 C. & P. 327, it was held that such a tenant is "only" bound to keep the premises wind and water tight; in the unreported case of *Dixon* v. *Mowbray & Co. Ltd.*, referred to in our "Current Topics" of 4th July, 1908 (62 SOL. J. 616), we recorded that £25 damages had been awarded against a publican tenant (from year to year) who had "done no repairs," and who, apparently, might also be said to have done no damage; and the judgments in *Wedd* v. *Porter* [1916] 2 K.B. 91, C.A., with their references to "wind and water tight," clearly suggest that more is to be expected than a mere restoration of damage for which the tenant is personally to blame, or which is due to the weather. And I consider that the proposition that "keeping wind and water tight" is not to be taken literally, but as describing a standard which would embrace such ordinary work-a-day repairs as replacing window-sashes and hinges, is worth arguing.

I may say that a state of affairs in which neither party was under any liability was considered possible, *obiter*, in a judgment delivered in *Lane* v. *Cox* [1897] 1 Q.B. 415, at p. 417; but it was not what one might call a reasoned *obiter dictum*. In the most recent case in which the Rent Acts were not concerned and in which something might have been said on the subject (*Marsden* v. *Edward Heyes Ltd.* [1927] 2 K.B.1, C.A.) the court exercised great caution and refrained from going outside the immediate issue.

Having decided, then, that there was no contractual liability on the landlord in *Wilchick* v. *Marks*, and not having been asked to consider whether the landlord had any contractual rights against the tenant, Goddard, J., proceeded to examine the position of each of them as against the plaintiff. His conclusions will be discussed in next week's "Notebook."

Our County Court Letter.

THE REPRESENTATIONS OF CANVASSERS.

IN *White and Carter, Ltd.* v. *Davey Bros., Ltd.*, recently heard at Oxford County Court, the claim was for £50 due in respect of advertisements published in the programmes of four cinemas. The case for the plaintiffs was that (1) having agreed to supply 7,000 programmes a month to the Union Cinema Co., Ltd., for distribution, the plaintiffs had been granted the right to sell the advertisement spaces; (2) their representative sold the back page to the defendants, and—if other firms were mentioned in the dummy programme—their names only appeared as potential advertisers; (3) no postage book could be produced (as the mailing was done by the cinemas themselves), but there was no guarantee that 7,000 should actually be posted, as copies left in foyers and cafés counted as circulation. Liability was denied on the ground of fraudulent misrepresentation, as the canvasser was alleged to have stated that (*a*) he was directly employed by the Union Cinema Co., Ltd., who had quarrelled with the local newspapers and had decided to spend the money (saved in press advertisements) in posting 7,000 programmes a month; (*b*) three other firms (whose names were written in the dummy programme) had actually booked space, which was untrue. Corroborative evidence was given (as to similar representations made elsewhere), and it was contended that—as the importance of the publication depended upon the standing of the advertisers—the defendants would not have taken the space if they had not been misled. His Honour Judge Randolph, K.C., gave judgment for the plaintiffs, with costs. It is to be noted that there is a distinction between the phrases "Let to" and "Reserved for" (when coupled with the name of a rival firm), although this may not be obvious to a potential advertiser. Compare a note under the above title in the "County Court Letter" in our issue of the 31st March, 1934 (78 SOL. J. 219).

CIVIL LIABILITY FOR MALICIOUS PROSECUTION.

THE dismissal of a criminal charge does not necessarily render the prosecutor liable for damages for malicious prosecution, as shown by the recent case of *Macdonald and Another* v. *Hodgkinson*, at Derby County Court. The plaintiffs each claimed £90 9s. 6d. as damages for malicious prosecution, their case being that (1) in March, 1932, they had been travelling in search of scrap metal, and had called at the defendant's premises; (2) they had agreed to buy certain scrap metal at £1 per ton, and (having paid £5 on account) they later removed three lorry loads to the railway station; (3) on a subsequent visit they were accused of stealing a clamp and skid chain, and were given into custody; (4) after their finger prints were taken, they were remanded (without bail) for three days, but the magistrates then dismissed the case, and ruled that the clamp and chain were the plaintiffs' property; (5) they therefore claimed the following items: £3 3s. defending solicitor's fee; 30s. witness fees; £2 drivers' wages; £3 2s. loss of use of lorry; £25 loss on contract; £60 damage to reputation. The defendant's case was that (*a*) he had acted on information (from his son) that the plaintiffs had been in a tram car body (the doors of which were locked) in a part of his premises which the plaintiffs had no right to enter; (*b*) he still believed that the plaintiffs had stolen the clamp and chain. His Honour Judge Longson held that the defendant (on the evidence before him) had acted as an ordinarily prudent and cautious man in forming the opinion that the plaintiffs were guilty, and he had therefore been justified in the steps he had taken. Judgment was given for the defendant, with costs.

Sir Gilbert Kenelm Treffry Purcell, late Chief Justice of Sierra Leone, of Ebury-street, left £3,012, with net personalty £2,957.

To-day and Yesterday

LEGAL CALENDAR.

18 JUNE.—Henry Bickersteth was born at Kirby Lonsdale on the 18th June, 1783. His father, the leading doctor of the town, destined him for a medical career, and when he left the Grammar School of his native place, he went to London to walk the hospitals, under the guidance of his uncle Dr. Batty. He joined the Royal Medical Society, and in 1802 supplied the place of his father during a temporary absence. Next year, he travelled abroad as medical attendant to the Earl of Oxford. It was only after his return to England that he decided to change his profession and joined the Inner Temple. He met success and became Master of the Rolls.

19 JUNE.—On the 19th June, 1683, Lord Chief Justice Saunders died of apoplexy at his house on Parsons Green.

20 JUNE.—On the 20th June, 1840, Courvoisier, the Swiss valet of Lord William Russell, was found guilty of murdering his master by cutting his throat while he slept. He heard the verdict of the Old Bailey jury unmoved, but the voice of Lord Chief Justice Tindal in passing sentence was at times quite choked by sobs. The case was unusual in several respects, the most important being that in the course of the trial the prisoner confessed his guilt to his counsel and yet insisted on their defending him to the uttermost. Fortified by the opinion of one of the judges, they continued the vain fight for their client's life.

21 JUNE.—On the 21st June, 1799, Claud Irvine Boswell, nephew of Dr. Johnson's biographer, was appointed an ordinary lord of session, and took his seat upon the bench with the title of Lord Balmuto. This office he filled for nearly twenty-three years till he retired. He was one of the strongly marked personalities so characteristic of the Scottish courts of his day. Passionate in temper, boisterous in manner, fond of joking on the bench, but not correspondingly appreciative of the wit of others, athletic and robust in frame, with black hair and beetling eyebrows, he was a notable figure in the judicial world.

22 JUNE.—On the 22nd June, 1381, Sir Robert Tresilian was appointed Chief Justice of the King's Bench where he had served three years as a puisne judge. He succeeded Sir John Cavendish, murdered a week before in Wat Tyler's revolt, and his first duty was to punish the rebels. He performed his task with such severity that his conduct on this occasion has been compared with that of Jeffreys on the Western Circuit after Monmouth's rising. One estimate puts the number of the condemned as high as fifteen hundred.

23 JUNE.—A curious libel action was heard in the Common Pleas on the 23rd June, 1842. A paper called the *Weekly Dispatch*, had launched a furious attack on Macready, the tragedian, the lessee of Drury Lane Theatre. The article accused him of admitting women of bad character "to sit down by the side of the wives and daughters, the sisters and mothers of persons of respectability." It called the decoration of the theatre "meretricious." It said that Macready in tragedy and comedy "bruinized" everything. "He is always Bruin, the growling curmudgeon or sore-headed bear." The real trouble was that the privilege of free admissions had been withdrawn from the *Dispatch*. In this action, the plaintiff recovered £5.

24 JUNE.—On the 24th June, 1726, Mr. Baron Smith died at the age of sixty-nine. He had the unusual distinction of having acted as a judge in England, Ireland and Scotland. His first appointment was to the Irish Court of Common Pleas, in 1700. Two years later, he was removed to the English Court of Exchequer. Finally, in 1708, he was appointed Lord Chief Baron of the Court of Exchequer in Scotland, retaining at the same time his office in England, and receiving an additional £500 salary.

THE WEEK'S PERSONALITY.

Here is the character of Lord Chief Justice Saunders: "As to his person, he was very corpulent and beastly—a mere lump of morbid flesh. He used to say 'by his troggs' (such an humorous way of talking he affected) 'none could say he wanted issue of his body, for he had nine in his back.' He was a fetid mass that offended his neighbours at the bar in the sharpest degree. Those whose ill-fortune it was to stand near him were confessors, and in summer-time almost martyrs. This hateful decay of his carcase came upon him by continual sottishness; for to say nothing of brandy, he was seldom without a pot of ale at his nose or near him . . . With all this, he had a goodness of nature and disposition in so great a degree that he may be deservedly styled a philanthrope . . . If any near him at the bar grumbled at his stench, he ever converted the complaint into content and laughing with the abundance of his wit. As to his ordinary dealing, he was as honest as the driven snow was white . . . Once, after he was in the King's business, he dined with the Lord Keeper and there he showed another qualification he had acquired, and that was to play jigs upon an harpischord, having taught himself with the opportunity of an old virginal of his landlady's; but in such a manner, not for defect but figure, as to see him was a jest."

THE EXPERT'S REPORT.

The innovation of court-appointed experts—doctors, engineers, surveyors and such skilled persons—to report upon matters within their province constitutes an interesting experiment in litigation. By leave of the court, they may be cross-examined, though the impartiality of an official status is probably designed to diminish the importance of that form of verification. On such occasions, there are particular dangers in cross-examination and, in analogous circumstances, the late Mr. Bidder, K.C., once fell into an odd trap. The Corporation of Nottingham wished to use certain land for sewage purposes, but a neighbouring property owner having objected, the Local Government Board sent down an inspector to report on the matter. Notwithstanding the opposition, a Bill was introduced into Parliament, and Bidder, who appeared for the objector before the Committee, claimed the right to cross-examine the inspector. Though he glared at him through his glasses in a way which made many witnesses quake, he did not make much of his cross-examination. As the witness was going out, he whispered to the counsel for the corporation: "It is a good thing he didn't ask me if I reported in favour of the order." He had in fact reported in favour of the objection.

EXPERT EXAGGERATION.

Presumably the "court expert" will be entirely free from the propensity of the partisan expert to look through the small end of the telescope and magnify if he is for the plaintiff—to look through the other end and minimise if he is for the defendant. The late Mr. Crispe, K.C., who had had some experience as an expert witness before coming to the Bar, possessed in consequence a certain advantage in dealing with that sort of manœuvre, and particularly enjoyed cross-examining former colleagues. Once he was appearing for a railway company to dispute a particularly exaggerated claim arising out of the value of some old houses. He tested the evidence of the opposing surveyor as to deductions for repairs, rates, taxes, loss of rent, and so on. By every technical standard, the figures came out right. Crispe did not press him, but asked whether he was not often instructed to value properties with a view to purchase. The answer being yes, the next question was whether such properties had not frequently been purchased under the witness's advice. Again he said yes. "Now," concluded counsel, "I ask you on your word of honour as a gentleman, would you have advised any client of yours to purchase at the price you have given us?" The sudden argument *ad hominem*, brushing aside theoretical calculations, produced the admission "No."

Notes of Cases.

House of Lords.

French *v.* Archibald Russell, Limited.

Lord Tomlin, Lord Warrington, Lord Thankerton, Lord Russell and Lord Macmillan. 11th June, 1934.

Workmen's Compensation—Continuing Effect of Injury —Workmen's Compensation Act, 1925, s. 9, sub-s. (4).

This was an appeal from a judgment of the First Division of the Court of Session, Scotland, on a case stated by the Sheriff-Substitute of Lanarkshire. The appellant, a miner, was unable to obtain employment because he could not sign a declaration that he had not previously suffered from miner's nystagmus. The question was whether that inability to obtain employment was a continuing effect of the injury so as to entitle him to compensation on the basis of total incapacity within the meaning of s. 9 (4) of the Workmen's Compensation Act. On 8th June, 1930, French was examined by a medical referee who certified that he French was recovering from an attack of miner's nystagmus and his condition was such that he was fit for his usual work as a miner. It was proved that since 6th June, 1930, French had made repeated efforts to obtain work but had failed to obtain it. The arbitrator held it proved that in consequence of the attack of nystagmus French was more susceptible to the disease than he was before it, and he awarded him compensation at the rate of 30s. a week. The First Division of the Court of Session on appeal by the colliery company allowed the appeal, holding that the case did not fall within the terms of s. 9 (4) of the Act of 1925, as amended. French now appealed. It was contended for the appellant that the arbitrator's finding was one of fact and as such not subject to review, and that the appellant's inability to sign a declaration was a continuing effect of the injury.

Lord Tomlin, in giving judgment, read s. 43 of the Act of 1925, and said he thought that it followed that in cases of industrial disease the injury by accident was not the contraction of the disease *simpliciter* but the contraction of the disease plus the consequent disablement or suspension as the case might be. Further, in the recent case before this House of *Barrow* v. *Ingham* (at present unreported) it was held that the words " the continuing effects of the injury " used in s. 9 (4) of the Act of 1925, referred to the physical condition of the workman resulting from the injury. It was the appellant's inability to sign the declaration which prevented his getting employment, and the case did not fall within s. 9 (4) (2), as set out in s. 1 of the Act of 1931. In the result, therefore, the decision of the court below was right and the appeal should be dismissed.

Lords Warrington, Thankerton, Russell and Macmillan concurred.

Counsel: *D. P. Blades*, K.C., and *James Walker*; *T. M. Cooper*, K.C., *A. G. Erskine Hill*.

Solicitors: *Pattinson & Brewer* for *George M'Laughlin*; *Hamilton and Allan McDougall & Co.*; S.S.C., Edinburgh; *Beveridge & Co.*, for *J. M. Davidson*, Glasgow, and *W. & J. Burness*, W.S. Edinburgh.

[Reported by S. E. Williams, Esq., Barrister-at-Law.]

Judicial Committee of the Privy Council.

Firm Bishun Chand *v.* Seth Girdhari Lal and Another.

Lord Blanesburgh, Lord Wright and Sir Lancelot Sanderson. 14th May, 1934.

Limitation—Moneylender and Borrower—Action for Balance Due—Whether an "Account Stated"—Indian Limitation Act, 1908, s. 64.

The appellants, moneylenders, had for twenty-five years been lending money to the respondents, the rate of interest being ten annas per cent. per mensem. At the foot of the page of the appellants' ledger on the debit side was written: "Balance due to be received after adjusting the account up to the 26th September, 1925, Rs.16,043–8–9." Below that entry was another entry in the handwriting of one of the respondents and signed by both of them to the effect that that sum was due to be paid by them. Nothing having been paid off that account after demands had been made, the appellants brought the present suit. The appellants stated in evidence that the last loan granted to the respondents was Rs.1,000 on the 9th August, 1921, and that the last acknowledgment of the account by the respondents previous to that now sued on was on the 10th October, 1921. The respondents pleaded that "within three years from the date of the institution of the present suit"—that was, from the 17th August, 1927—they had neither contracted any debt from the appellants nor paid them any sum of money. The trial judge accepted the appellants' evidence and found that there was in fact a settlement of account between the parties on the 26th September, 1925, so that the balance then struck became itself a debt which was to carry future interest, and he accordingly gave judgment for the appellants, holding that there was an "account stated" within the meaning of s. 64 of the Indian Limitation Act, 1908. The judgment of the trial judge was reversed on appeal to the High Court of Allahabad, the appeal judges holding that in law the words "account stated" could not properly be applied to a moneylending transaction where one party lent to the other and the other merely made repayments of the money, so that the borrower was always the debtor of the lender: such transactions, they held, were entirely unilateral and there could be no statement of a mutual account so as to satisfy the words in s. 64 of the Limitation Act, "accounts stated between them." The appellant now appealed.

Lord Wright, giving the judgment of the Board, said that the question was whether the ruling of the Appeal Court was correct in law. There had been a considerable conflict of authority in the Courts in India, and their lordships felt both entitled and bound to consider the question as a matter of principle and with reference to decisions of the English courts on the point. After dealing with a number of authorities, his lordship said that the closest parallel to the present case was that of accounts between banker and customer; that relationship was one of debtor and creditor, the banker being the debtor when the account was in credit, and the customer being debtor when the account was overdrawn. It had never been doubted that in law there could be a settled or stated account between banker and customer. Trial Judge upheld, and appeal allowed.

Counsel: *Dunne*, K.C., and *Hyam*, for the appellants; *Dr. Majid* for the respondents.

Solicitors: *Hy. S. L. Polak & Co.*; *Ram Singh Nehra*.

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

Court of Appeal.

In re Hill's Trusts: Claremont *v.* Hill.

Greer and Maugham, L.JJ. 15th June, 1934.

Solicitor — Taxation — Profit Costs — Solicitor-Trustee—Employment of His Own Firm—Fixed Annuity from Firm's Profits.

Interlocutory appeal from a decision of Eve, J.

The plaintiff, a trustee without power to charge, employed the firm of solicitors in which he was a partner to do certain work in connection with the trust. Another partner had for many years attended to the trust, and, during the material time, the plaintiff received, under an agreement with the firm, a fixed annuity instead of a share in the partnership profits. Eve, J., held that on taxation profit costs should be disallowed.

GREER, L.J., dismissing the appeal, said that though the plaintiff's share of profits was limited to a fixed sum, this still constituted an interest in the profits made by the firm. *In re Gates* [1933] Ch. 913, was rightly decided.

MAUGHAM, L.J., agreed.

COUNSEL: *J. Bowyer; J. Strangman.*

SOLICITORS: *Claremont, Haynes & Co.; Warren, Murton, Foster & Swan.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re Brooker: Young *v.* Public Trustee.

Eve, J. 9th June, 1934.

PARTITION—LAND VESTED IN PERSONS OF FULL AGE AND IN UNDIVIDED SHARES STATUTORY TRUSTS LAW OF PROPERTY ACT, 1928, s. 28, sub-s. (3).

By his will, made in 1921, the testator, T.E.B., gave the income of all his property, including specifically the rents owned jointly with his brother, J.B., to his wife during her life, and after her death, equally between his brothers and sisters therein named. There was no trust for sale and no appointment of executors. The testator directed that the property should not be sold during the lifetime of J.B., except with the consent of all the persons interested therein. The testator died in 1923, and administration with the will annexed was granted to his widow and afterwards, as to property left unadministered, the Public Trustee was appointed administrator. J.B. died in 1929, having by his will given all his property to his trustees upon trust to divide the income equally between his children until the death of the last of them, and then upon trust for sale and division amongst issue *per stirpes*. The bulk of the property, which passed under both wills, consisted of land and houses at East Grinstead, originally held by T.E.B. and J.B., as tenants in common, and on 1st January, 1926, the legal estate in the entirety of the land became vested in the Public Trustee. The beneficiaries under the will of T.E.B. desired the property to be sold and the proceeds to be divided, but the children of J.B. some of whom were in occupation of houses forming part of the estate objected to a sale, and a scheme of partition was therefore preferred. The summons raised the question whether the language of s. 28, sub-s. (3), of the Law of Property Act, 1928, giving a power of partition where the proceeds of sale of land are "absolutely vested in persons of full age in undivided shares" included legal personal representatives and trustees or must be confined to persons absolutely entitled to beneficial interests only, and if there shall be no power to partition, ask the court to authorise a partition under s. 57 of the Trustee Act, 1925.

EVE, J., said on the whole, after considering *In re Thomas* [1930] 1 Ch. 194, he had come to the conclusion that he ought to follow an unreported decision of Bennett, J., on almost similar facts, and held that the words in the sub-section were not confined to persons who were beneficially entitled. The trustees therefore had power, with the consent of the defendants to partition the land vested in them.

COUNSEL: *E. M. Winterbotham: Hon. Trevor Roberts.*

SOLICITORS: *Waterhouse & Co.*, for *Frederick Turner and Jones*, East Grinstead.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

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Obituary.

Sir STEPHEN SALE.

Sir Stephen Sale, formerly legal adviser to the Secretary of State for India, died at his home at Midhurst, Surrey, on the 15th June, at the age of eighty-three. Sir Stephen, who was educated at University College, London, was called to the Bar by the Middle Temple in 1876, and proceeded to Calcutta, where he soon established himself as one of the leading advocates. In 1893 he was appointed a Judge of the High Court there, a position he held until 1907, when he was selected to be Legal Adviser and Solicitor to the Secretary of State. He was knighted in 1914, and retired in 1917. He was a J.P. for the County of Sussex and Chairman of the Petty Sessional Division and of the Rural District Council.

Judge MOORE.

Judge Robert Ernest Moore, County Court Judge of Southwark, Greenwich, and Woolwich (Circuit 47), died at his home at Blackheath, on the 18th June, at the age of seventy. Judge Moore was educated at Malvern and Trinity College, Cambridge, and was called to the Bar by the Middle Temple in 1887. He practised on the South-Eastern Circuit and was appointed Judge of County Courts on the Durham Circuit (No. 2) in 1919, and in 1927 was transferred to London. For many years he took a deep interest in the Cambridge University Settlement, where he had charge of a "Poor Man's Lawyer" department; he was also at one time a member of the Inns of Court Rifle Volunteers and, on the outbreak of war, assisted in forming the Inns of Court Reserve Corps, which he commanded.

Mr. H. W. BADGER.

Mr. Henry Walter Badger, head of the firm of Leeman, Wilkinson & Badger, of Coney Street, York, died at his home in Clifton Green in that city, on 15th June, at the ag eof eighty-four. Mr. Badger, who was York's oldest practising solicitor, was educated at St. Peter's, York, Rugby School and Cambridge University, and was admitted a solicitor in 1874. He was a past president of The Yorkshire Law Society, as had been his grandfather as far back as 1836, and was secretary to the Derwent Valley Light Railway Company and the Wilberfoss and Thornton Level Drainage Board. Mr. Badger at one time played cricket for Yorkshire Gentlemen, of which club he was one of the founders.

THE ADMINISTRATION OF TOWN AND COUNTRY PLANNING.

The Minister of Health has appointed an Advisory Committee to consider general questions relating to the administration of town and country planning in England and Wales, and any other related matters which may from time to time be referred by the Minister to the Committee, and, as occasion may require, to make recommendations to him. The Chairman of the Committee is Mr. E. J. Maude, C.B., Deputy Secretary of the Ministry of Health. The members of the Committee are:—Professor P. Abercrombie, M.A., F.R.I.B.A., Major H. Barnes, F.R.I.B.A., F.S.I., E. J. Churchman, Esq., J.P., F.A.L.P.A., Colonel Sir G. Courthope, Bart., M.P., F. M. Elgood, Esq., C.B.E., F.R.I.B.A., C. Gerald Eve, Esq., E. P. Everest, Esq., M.B.E., Major W. H. Hamilton, J.P., T. W. Haward, Esq., F.L.A.S., H. H. Humphries, Esq., C.B.E., M.Inst.C.E., J. E. James, Esq., E. C. King, Esq., Alderman G. A. Lansdown, J.P., F.R.I.B.A., F.S.I., T. Alwyn Lloyd, Esq., F.R.I.B.A., A. M. Oliver, Esq., W. L. Platts, Esq., W. Prescott, Esq., R. A. Reay-Nadin, Esq., Sir Raymond Unwin, F.R.I.B.A., Colonel C. W. Whitaker, M.A. Mr. E. S. Hill of the Ministry of Health has been appointed Secretary of the Committee.

The Law Society.

ANNUAL GENERAL MEETING.

The annual general meeting of the members of the Society will be held at the Society's Hall (Chancery lane entrance), on Friday, the 6th July, at 2 p.m. The following are the provisions of Bye-law 15 as to the business to be transacted at an annual general meeting, namely: "The business of an annual general meeting shall be the election of President, Vice-President, and Members of Council, as directed by the Charter, and also the election of Auditors; the reception of the accounts submitted by the Auditors for approval, the reception of the Annual Report of the Council, and the disposal of business introduced by the Council, and of any other matter which may consistently with the Charter and Bye-laws be introduced at such meeting."

The following candidates have been nominated to fill the thirteen vacancies in the Council, and in the offices of President, Vice-President, and Auditors:—

Qualified members of the Society nominated as members of the Council: *Dingwall Latham Bateson, Edward Leslie Burgin, LL.D., M.P., *Geoffrey Abdy Collins, B.A., LL.B., *Henry Thomas Alexander Dashwood, M.A., *†Hubert Arthur Dowson, *Bernard Harpur Drake, C.B.E., B.A., Harold Marson Farrer, *Sir John Roger Burrow Gregory, LL.D., J.P., *†William Edward Mackenzie Mainprice, *Charles Gibbons May, Walter Charles Norton, M.C., *Sir Reginald Ward Edward Lane Poole, K.C.V.O., *George Stanley Pott, B.A., Thomas William Wood Roberts, J.P., Fred Webster, B.A., LL.B.

Qualified members proposed as President and Vice-President: (As President) Harry Rowsell Blaker (as Vice-President) Sir Harry Goring Pritchard.

Qualified persons proposed as Auditors: John Stephens Chappelow, F.C.A., Everard Stearns Bristowe, Noel Edgar Barraclough.

Mr. Wilfrid Ellis (London) will move: "That the Council of the Society be requested to approach the authorities of London University with a view to the latter passing a Statute declaring that any person who has passed the Solicitors Final Examination shall be *totally* exempted from the London Matriculation Examination and declaring that the University will register such persons either as external or internal students, for the purpose of proceeding to obtain a degree of London University."

ANNUAL REPORT.

The Annual Report of the Council to be presented to the General Meeting of the members on 6th July, 1934, announces the vacancies on the Council, ten of which are caused by retirement in rotation, and three by the death of Sir Robert Dibdin, Sir Robert Welsford and Mr. Walter M. Woodhouse; particulars of the nominations appear in the foregoing announcement.

After recording the honours conferred upon Sir Dennis Herbert, a member of the Council, who was in June last appointed a member of His Majesty's Privy Council, upon Sir Reginald Ward Edward Lane Poole, the President of The Law Society, who in the last birthday honours was created a Knight Commander of the Victorian Order, and upon Mr. Edmund Ralph Cook, C.B.E., the Secretary to the Society, who, in the same honours list, received a knighthood, the Report goes on to record various other matters and events of the past year, some of the more important of which are as follows:—

Membership of the Society.

The Society has now 10,578 members, of whom 4,259 practise in town and 6,319 in the country. The number of members who joined the Society during the past year is 354, as compared with 556 in the previous year. After allowing for deaths, resignations, and exclusions, the number of members shows an increase for the year of seventy-three. The present membership is once again the highest in the Society's history, being approximately two-thirds of the total number of practising solicitors. The Council venture to urge all members to do what they can towards persuading non-members to join the Society. By this means it will be assisting in its work of protecting and advancing the interests of the profession.

Legal Education.

The number of articled clerk students attending Law Schools (excluding the Universities of Oxford, Cambridge, and London), in the Autumn Term, 1933, was 1,207, an increase of 122 compared with the corresponding figures for the previous Autumn Term. The increase comprises an additional sixty-two students at the London School and sixty in the country.

* Retiring members of the Council.
† Provincial Law Society nominees.

Provincial Meeting, 1933.

The forty-ninth Provincial Meeting of the members of The Law Society was held at Oxford on the 26th and 27th September, 1933, on the invitation of the Berks, Bucks and Oxon Incorporated Law Society.

The meeting throughout was favoured by ideal weather and was very largely attended.

Provincial Meeting, 1934.

On the invitation of the Newcastle-upon-Tyne Incorporated Law Society, the fiftieth Provincial Meeting of The Law Society will take place on the 25th and 26th September next at Newcastle-upon-Tyne.

Solicitors Act, 1933.

The Bill which the Council had promoted enabling them to make rules requiring solicitors to keep separate accounts of clients' money received the Royal Assent on the 28th June, 1933.

The Council expressed to the Master of the Rolls and to Mr. Roy Bird, M.P., their thanks for the valuable assistance they had rendered in connection with the Bill. Mr. Roy Bird's untimely death in South Africa later in the year was to them a matter of very great regret.

Some time before the passing of the Act the Council had been occupying themselves with the preparation of the rules and the work had proceeded so far that it became possible to publish the draft to the profession within a very few days after the Bill had become law. It was possible also to refer to the draft rules at the Annual General Meeting of the Society held in July last, when the President stated that the rules had been submitted to the Provincial Law Societies and to the City of London Solicitors' Company, and that the Council would be glad to receive comments upon the draft from members generally.

Many comments were received from individual members and individual provincial societies, which were sent to the Associated Provincial Law Societies, who in turn considered them and prepared a report upon them in which various principles were laid down and various amendments suggested.

At the Special General Meeting of the Society held in January, 1934, the President reported to the meeting that the rules had been completed and would be printed in the February issue of the Law Society's *Gazette* and would be submitted to the Master of the Rolls a fortnight after such publication.

After submission to the British Bankers' Association, and no criticisms in reply being received, the rules then were sent to the Master of the Rolls on the 26th February, 1934, with copies of letters regarding them which the Council had received after their publication. The rules as submitted include a provision that they shall come into operation on the 1st January, 1935.

Solicitors' Remuneration.

In his presidential address at Oxford Sir Reginald Poole suggested the desirability of amending the Gross-sum Remuneration Order of 1920 so as to reduce to six months the period of twelve months within which a client must ask for details of a gross-sum bill, and so as to abolish entirely the client's power to keep open his time for requiring details by omitting to pay the bill. The suggestion appeared to meet with the approval of the meeting and the President therefore submitted it to the Lord Chancellor, who at once expressed his willingness to summon the Remuneration Committee.

Mr. William Glasgow, the President of the Incorporated Law Society of Liverpool, was nominated by the Lord Chancellor to serve on that Committee.

The Committee met and have made an Order which has been laid on the table of both Houses of Parliament. The terms of the Order are :—

1. Without prejudice to the power possessed by the court under the Solicitors Act, 1932, or otherwise or to the powers conferred upon the solicitor or the party chargeable with the bill under s. 66 of the Solicitors Act, 1932, the remuneration of a solicitor in respect of all business regulated by cl. 2 (*c*) of the General Order of 1882, as amended by any subsequent General Order, may at the option of the solicitor be by a gross sum in lieu of by detailed charges :

Provided that within six months after delivery of a charge made under this Order whether it has been paid or not the client may require that a detailed bill of charges shall be delivered and the solicitor shall thereupon comply with the requisition and any bill so delivered shall be subject to taxation as if the provisions of this Order with respect to the regulation of remuneration by gross sum has not been made.

2. In this Order the "General Order of 1882" means the General Order which was made under the Solicitors' Remuneration Act, 1881, and came into force on the 1st day of January, 1883.

3. The Solicitors' Remuneration Act General Order, 1920, is hereby revoked except in respect of charges made under that Order and delivered before this Order comes into force.

4. This Order may be cited as the Solicitors' Remuneration (Gross Sum) Order, 1934.

Business of Courts Committee.

In the last Annual Report reference was made to the appointment of this Committee and to its first interim report and to the fact that the Council were in sympathy with the recommendations made in that report.

The Committee issued in December last a second interim report in which the following recommendations were made :—

1. That Divisional Courts should be abolished.
2. That puisne judges should sit in the Court of Appeal and that no more Lords Justices should be created.
3. That the Court of Criminal Appeal should be a division of the Court of Appeal.
4. That the Probate, Divorce and Admiralty Division should cease as a separate Division and that probate work should go to the Chancery Division and Divorce and Admiralty work to the King's Bench Division.
5. That there should be a reduction in the number of Assizes and Assize towns.
6. That in order as far as possible that trials should be expedited and Assizes relieved of work, Quarter Sessions should be required to hold sessions shortly before the date fixed for Assizes.
7. That with certain exceptions and with the object of enabling the Judge of Assize to estimate the volume of his work no case should be tried at any Assize except by leave of the judge unless it had been entered twenty-eight days before the commencement of the Assize.
8. That the power of justices to commit persons charged with indictable offences to some other Assize or Quarter Sessions under s. 14 of the Criminal Justice Act, 1925, should be extended.
9. That the procedure at the Central Criminal Court should be changed.
10. That s. 1 of the County Courts Act, 1919, should be amended so as to permit of High Court cases up to £200 being remitted to the County Court and that the jurisdiction of County Court Registrars should be increased from £5 to £10.

The foregoing recommendations, being of far-reaching importance to the public and the profession, were referred for consideration to the Legal Procedure Committee, and were considered also by the Provincial Law Societies. From the report of the Legal Procedure Committee which was adopted by the Council it will be observed that the Council approve most of the recommendations, but that they are opposed to the suggestion that puisne judges should sit in the Court of Appeal, and are of opinion that nothing should be attempted which would be calculated in the least degree to affect the world-wide reputation which has been secured by the Admiralty Court.

A copy of the report has been forwarded to the Lord Chancellor in response to his lordship's request for the Council's observations.

Law of Arbitration.

The Council from time to time had urged that legislation should be introduced to give effect to the alterations in the law of procedure relating to arbitration recommended in 1928 by Mr. Justice MacKinnon's committee. In June, 1933, they invited the co-operation of the General Council of the Bar, and subsequently they received a reply that the Bar Council would welcome legislation on the lines of the MacKinnon report and that co-operation might best take the form of a joint letter to the appropriate authority. In February last, a Bill was introduced into the House of Lords based upon the report referred to. Its main purpose is to expedite and simplify procedure on arbitration. It has passed through all its stages in both Houses and has received the Royal Assent as the Arbitration Act, 1934. Representatives of the Bar Council and of the Council of The Law Society met to consider the Bill and prepared and forwarded to the Lord Chancellor a Memorandum suggesting certain amendments. A copy of the joint Memorandum is included in the Appendix to the report.

Law Revision.

On the 10th January last the Lord Chancellor appointed a Committee to consider how far, having regard to the statute law and to judicial decisions, such legal maxims and doctrines as the Lord Chancellor may from time to time refer to the Committee require revision in modern conditions.

The Lord Chancellor referred immediately to the Committee the following :

(1) The doctrine of no contribution between tort-feasors.

(2) The legal maxim "*actio personalis moritur cum persona*" and the rule that "in a civil court the death of a human being could not be complained of as an injury."

(3) The liability of the husband for the torts of the wife.

(4) The state of the law relating to the right to recover interest in civil proceedings.

The Committee sit under the chairmanship of the Master of the Rolls, and include the President of The Law Society (Sir Reginald Poole) and Mr. W. E. Mortimer, a member of the Council.

The Committee have issued their first Interim Report, in which they consider the maxim "*actio personalis moritur cum persona*," as to which they recommend certain changes in the law to remove the effect of the maxim in certain cases and enable actions to be brought subject to the limitation that the cause of action must have arisen within six months of the death, and the action must be commenced within six months after representation has been taken out.

The Committee have also issued a second Interim Report—apparently published within a few days of the first—which deals with the state of the law relating to the right to recover interest in civil proceedings, and recommends a material increase of the number of instances in which the court may order interest to be paid.

The Lord Chancellor has introduced into the House of Lords a Bill incorporating the foregoing recommendations.

Departmental Committee on Legal Education.

The Committee appointed in 1932 by the Lord Chancellor to consider the organisation of legal education in England with a view to closer organisation between the universities and the professional bodies invited the Council to tender evidence.

Mr. Douglas Garrett was appointed to represent the Council, and gave evidence summarising the various statutory provisions regarding the training and admission of solicitors. This evidence included a statement as to the provision for legal education which has been made by The Law Society in London and the provinces, and the amounts which have been and are being expended on legal education and the sources from which those funds are derived.

Training of Articled Clerks.

In the year 1929 the Council appointed a Committee consisting of members of the Examination and Legal Education Committees to consider the statutory and other provisions which regulate the training for and entrance to the profession and whether any alterations are desirable. The Committee have reported, and the Council, after considering their reports and after submitting their reports to the Provincial Law Societies, have passed the following resolutions :—

1. *Entrance into the Profession.*

(1) That no solicitor, unless he shall have obtained special leave from the Council of The Law Society, should be permitted to take an articled clerk until he shall have taken out a practising certificate for not less than five consecutive years.

(2) That no examination should exempt from the Society's Preliminary Examination, unless Latin is one of the subjects in which the candidate has satisfied the examiners.

(3) That the statutory fee of 5s. for the registration of articles should be increased to £1.

2. *Duration of the Training of Articled Clerks.*

(1) That the normal period of training under articles should continue to be five years.

(2) That the following examinations should be deleted from the list of matriculation examinations which exempt from one year's service under articles :—

The Entrance Examination at the University of Dublin (in Honours).

The Responsions Examination at St. David's College, Lampeter.

The Responsions Examinations at Oxford.

The Previous Examination at Cambridge.

(3) That the exemption from one year's service under articles at present accorded to persons who have passed certain matriculation examinations should be reduced to six months and that such exemption should be restricted to persons who have passed such examinations before being articled.

(4) That the exemption from one year's service under articles at present accorded to persons who before being articled have passed certain University Intermediate Examinations should be reduced to six months, and that such examinations must be passed before entering into articles.

(5) That the two periods of six months' exemption gained under paragraphs (3) and (4) should be cumulative.

(6) That the list of Intermediate Examinations referred to in paragraph (4) should be amended so as to exclude all examinations which are not definitely legal, and so as to include the Intermediate LL.B. or equivalent examination of all Universities in England and Wales.

3. *Attendance at a Course of Legal Education, and Exemption from the Intermediate Examination.*

(1) That all articled clerks who are not exempt from a year's attendance at a Law School should be required to commence their attendance not later than twelve months after entering into articles, unless they obtain an extension from the Council, upon penalty of the loss of any period served under articles from the expiration of one year from their date until the commencement of the period of attendance at a Law School.

(2) That exemption from compulsory attendance at a Law School under s. 32 of the Solicitors Act, 1932, should be granted to English Barristers, Scottish Advocates, Writers to the Signet and Solicitors, and Irish Barristers and Solicitors.

(3) That the provisions of s. 32 (1) (*c*) (i) of the Solicitors Act, 1932, which grant exemption from compulsory attendance at a Law School to any person who has taken a degree at a university "after passing a final examination in law," should in future, subject to the approval of the Master of the Rolls, to whom an appeal lies under the sub-section, be interpreted on the footing :—

(i) that where, as at Cambridge, an Honours degree is awarded after taking two Tripos examinations in different subjects, only the second, and not the first, part of the Law Tripos should be deemed to constitute a final examination in law ;

(ii) that where a final examination is divided into two or more subjects or groups, all the subjects or groups must be legal.

(4) That the Council should amend its regulations governing attendance at a law school under s. 32 of the Solicitors Act, 1932, so as to provide that the head of a law school may require students to answer test papers in the subjects covered by the lectures attended, and may, subject to an appeal to the Council, refuse to count the attendance for the term of any student whose answers to the test papers are gravely discreditable, but may dispense the student from taking test papers on the ground of illness or other unavoidable cause.

(5) That the Council should amend its Regulations under s. 30 of the Solicitors Act, 1932, governing exemption from the legal portion of the Intermediate Examination, by restricting such exemption, so far as graduates in law are concerned, to such graduates as are granted exemption from compulsory attendance at a Law School under paragraph (3).

4. *The Intermediate Examination.*

(1) That clerks articled for five years should be allowed to present themselves for the Intermediate Examination after one year's service and that clerks articled for shorter periods should be allowed to present themselves at any time after the date of their articles.

(2) That the subjects for the Intermediate Examination should be as follows :—

(*a*) Public Law, comprising—

(i) The Law and Custom of the Constitution.

(ii) The Organisation of the Courts of Justice with the outlines of their past history.

(*b*) Elements of the Law of Real Property.

(*c*) The Law of Contract.

(*d*) The Law of Tort.

(*e*) Trust Accounts and Book-keeping.

(2*a*) That there should be no set books for the Intermediate Examination, but that the Council should from time to time issue lists of books which are recommended.

5. *The Final Examination.*

(1) That the subjects for the Final Examination should be as follows :—

(*a*) *Compulsory subjects*—

(1) The Law of Real and Personal Property, with special reference to the principles and practice of Conveyancing, but exclusive of the topics covered by Papers 3 and 4.

(2) Procedure and Practice of the Chancery and King's Bench Divisions of the High Court, the County Courts, and in proceedings before Magistrates, Criminal Law and Procedure.

(3) The Law of Wills and of Intestate Succession and of the Administration of Assets, including the Procedure and Practice of the Probate Court and Death Duties. The law regarding Income Tax.

(4) Company Law, Bankruptcy, Bills of Sale, Employment, Agency and Partnership, Negotiable Instruments, and Sale of Goods.

(B) *Optional subjects*—

(*One out of four to be taken*)

(5) The Law of Shipping, including Marine Insurance and Carriage of Goods by Sea, and the Procedure and Practice of the Admiralty Court.

(6) Patents, Trade Marks and Copyright.

(7) Local Government and Administrative Law and Practice.

(8) Conflict of Laws and Divorce, including the Procedure and Practice of the Divorce Court.

6. *Intermediate and Final Examinations.*

That the regulations for the Final Examination should contain a note that in the compulsory papers questions may be set on the general law of contract and tort and on any of the principles and rules of Equity, and that the regulations for the Intermediate Examination should contain a note that candidates are required to know the principles and rules of Equity which are relevant to any of the subjects of the Examination.

The Council have been advised that many of the foregoing resolutions can be adopted under present regulations or statutory provisions, but that with regard to some of them it will be necessary to seek statutory authority.

The resolutions, therefore, have been referred back to the Joint Committee to prepare legislation accordingly and consider what (if anything) will be the cost of the additional tuition which may be involved.

Preliminary Examination Exemptions.

It is provided by s. 28 of the Solicitors Act, 1932, that every person shall be exempted from the Preliminary Examination who has taken a degree (not being an honorary degree) in Arts or Law at any University specified in the Second Schedule to the Act. The Universities specified in that schedule are exclusively British Universities. The intention was, and always has been, that examinations of foreign Universities should not exempt from the Preliminary Examination.

The section, however, also provides that every person shall be exempted from the Preliminary Examination who has passed the Matriculation or other corresponding Examination of any University specified in the Second Schedule or any Examination accepted by any such University as exempting from those Examinations. The Council have found that some of the British Universities have been granting exemptions from their Matriculation Examination to persons who have passed examinations of foreign Universities. The result has been that those who have passed foreign examinations have been able indirectly to secure that exemption from The Law Society's Preliminary Examination which was intended only for those who had passed British University Examinations.

The Council consider that they ought to be the final arbiters as to whether or not a foreign examination should exempt from the Preliminary Examinaion. They are, therefore, promoting legislation to secure that no examination accepted by a British University in lieu of its Matriculation Examination shall exempt from The Law Society's Preliminary Examination unless it is approved by the Council.

County Courts (Amendment) Bill.

In the Appendix to the last Annual Report there was included a report upon the draft of this Bill, and it was stated that a copy of the report had been forwarded to the Lord Chancellor in response to his invitation to the Council to submit their observations upon it.

The Bill was introduced by the Lord Chancellor in February last in a form which gave effect to the slight amendments which the Council had ventured to suggest.

The Bill was referred by the Council to their County Courts Committee who raised a further question upon it regarding its provisions as to county court Admiralty jurisdiction.

The Bill provided in Clause 13 that an Admiralty county court should, in relation to Admiralty matters, have jurisdiction to hear and determine (*inter alia*) any claim for an amount not exceeding £300 arising out of an agreement relating to the use or hire of a ship or relating to the carriage of goods in a ship or in tort in respect of goods carried in a ship unless it were shown to the court that at the time of the institution of the proceedings any owner or part-owner of the ship was domiciled in England.

It has been possible under the provisions of the County Courts Admiralty Jurisdiction Amendment Act, 1869, in the past to litigate in the county court the claims referred to, whether or not the owner or part-owner of the ship was domiciled in England.

The effect, therefore, of the clause as drafted would have been to place the English domiciled owner or part owner of a ship in a less favourable position than the foreign domiciled owner, although he has not been in that position in the past.

Chambers of Shipping and Chambers of Commerce on being consulted on the question passed resolutions opposing the change, and thereupon the Council intimated to the Lord Chancellor their opinion that the law should remain unaltered. The Bill was amended in the House of Commons accordingly.

The Council feel sure that in its amended form the Bill (which now has passed the legislature and received the Royal Assent as the County Courts (Amendment) Act, 1934) will command general approval.

Supreme Court Rules.
Employment of Court Expert.

The Council received from the Lord Chancellor's Secretary a copy of a draft rule to give effect to a proposal that the High Court should have power at any time, on the application of either party to an action, to appoint an independent expert upon any question in issue in the action. The proposal is that the expert's report—so far as the same is not accepted by all parties—shall be treated as information furnished to the court, and shall be given such weight as the court shall think fit. It is contemplated that any party shall be at liberty to apply for leave to cross-examine the expert, he being called and sworn for the purpose at such stage of the proceedings as the court shall direct. The object of the rule is described as an attempt to remove some of the objections to the present method of taking expert evidence in the High Court in England.

The Council, on various grounds, have found themselves unable to concur in the proposal. It appears to them that in a great many cases it would be impossible for a so-called independent expert to arrive at a fair conclusion until he had had the opportunity, in his turn, of hearing what other experts and witnesses of fact had to say, and that he could not, in many cases, form a fair judgment unless he had the same opportunity of arriving at that judgment which the court has now. The Council feel that there is a danger in the principle formulated by the Order that the expert will find himself to be and that the court will use him as a person who is not merely about to give evidence, but as a person whose evidence is about to be acted upon by the court, so that the case would be tried, not by the judge, but by the expert.

For these and other reasons the Council have found themselves unable to approve the rule.

Country Solicitor attending Trial in London.

The following resolution of the Associated Provincial Law Societies was submitted to the Council :—

"That in the opinion of this Association the costs of attendance of a country solicitor at hearings of actions and appeals in London should be allowed as a matter of course, unless for some good cause the judge sees fit to order otherwise, and that The Law Society be requested to take such steps as they may think expedient to secure an alteration in the present practice accordingly."

A copy of the resolution was also submitted to the Council by the Lord Chancellor.

The Council, in commenting upon the resolution, stated that in their opinion the question of whether in particular cases a country solicitor should attend at the hearing of actions in London should remain a matter for the discretion of the Taxing Master. It seemed to them, however, that the discretion possibly might be exercised more liberally than it has been in the past.

Trade-mark Agents.

A suggestion was made to the Council by a patent agent, who is a member of the Society, that trade-mark agents should be registered and controlled in the same way as patent agents, it being understood that if such a register were established, solicitors should be exempted from having to place their names upon it.

The Council passed a resolution approving the recommendation, and communicated to that effect with the Trade-mark Departmental Committee now sitting.

Poor Persons Procedure.

The Annual Report of the London and Provincial Committees of their work during 1933 is included in the Appendix to the Report. It will be observed from it that, without exception, the Honorary Secretaries report good progress of the work, and that the Committees and the conducting solicitors have continued with the utmost loyalty to support the Law Societies in this great undertaking. An especially satisfactory feature is that, to a continually increasing degree, the Committees and the solicitors who are co-operating with them are giving advice and rendering professional assistance in cases which are not strictly within the limits of the High Court Procedure Rules.

With regard to the number of solicitors who have placed their names on the various rotas as willing to act for poor persons, it is noted with regret that although in the provinces there is generally an adequate number of solicitors expressing their willingness to assist, and that in many provincial districts

every practising solicitor has allowed his name to be entered on the rota, the proportion of London practising solicitors who have offered their services is inadequate. Some London solicitors, in response to an appeal to them to assist, state that already they are acting as London agents for poor persons solicitors. This may be so to some extent, but the Council can feel no doubt, in view of the small proportion of London solicitors who have entered their names, that there must be a very considerable number who, so far, have stood aloof altogether. The Council venture once again to express the hope that a very considerably larger number of London solicitors will place their names on the conducting rota.

Since the Report was issued, letters have been received from the Lord Chancellor's Secretary, and from the Lord Chief Justice, the Master of the Rolls, the President of the Probate, Divorce and Admiralty Division, Sir Paul Lawrence, and the Attorney-General, expressing appreciation of the work which has been done by the Committees.

The Council desire once again to express to the Committees and their Honorary Secretaries, and to the conducting solicitors, their thanks for their loyal and valuable co-operation.

In response to suggestions received from some of the Committees, the Council have made representations to the Rule Committee that r. 31 (B) of Ord. 16 should be amended to empower the court to grant profit costs to poor persons' solicitors, even in the absence of special circumstances. The question, which is not free from difficulty, has been referred by the Rule Committee to a special sub-committee presided over by Sir Boyd Merriman, on which two solicitors have been appointed on the nomination of the Council.

Summary Jurisdiction (Appeals) Act, 1933.

It was stated in the last Annual Report that when this new legislation was being considered in Parliament the Council had represented to the Home Secretary who was in charge of the Bill that there should be ready access by appellants to whatever appellate tribunal might be provided, and that therefore, solicitors should be permitted unrestricted right of audience and that they should be remunerated adequately.

The Act was passed without any direct reference to the question of audience. With regard to remuneration for legal assistance it was left to be fixed by rules to be made by the Home Secretary.

The Home Secretary submitted to the Council the draft of the rules and invited their observations. The draft provided that a fee of £2 2s. was to be paid to the solicitor for the conduct of each appeal. The Council expressed the opinion that the fee was inadequate and supplied their reasons. In his reply the Home Secretary pointed out that the fee attracted the 25 per cent. temporary addition, but in view of the Council's representations he was prepared to substitute £3 3s. for £2 2s. The rules were made accordingly.

On the question of audience before the new appeal tribunals, being in the case of appeals from county justices a committee of County Quarter Sessions and from borough justices the Recorder sitting as Borough Quarter Sessions, the Council communicated with each clerk of the peace urging that it would make for expedition and economy if solicitors were allowed audience. Many replies have been received and they show that only in rare instances has audience to solicitors been conceded. The Society of Clerks of the Peace for Counties stated that they could not see their way to concur in the suggestion that solicitors should have a right of audience before the Appeal Committees.

Matrimonial Causes (Procedure in Suits for Nullity) Bill.

This Bill was introduced into the House of Lords by Lord Merrivale in November last, its intention being to provide that the hearing of nullity suits should take place in camera. The Council found themselves entirely in sympathy with the objects of the Bill, and as they regarded it as of importance that their opinion should be known publicly without delay, they authorised the President to write a letter to *The Times* regarding their view.

The letter appeared in *The Times* of the 5th December, 1933.

The Bill has passed the House of Lords and been sent to the Commons.

Road Traffic (Compensation for Accidents) Bill, 1933.

This Bill, which was a private member's Bill and was introduced into the House of Lords by Lord Danesfort, was intended to enable persons injured on the road by a motor vehicle—unless they were motorists themselves—to recover compensation without proof of negligence on the part of the defendant.

As it was evident, if the Bill passed, that actions to recover compensation would increase in number, the draftsman of the Bill included in it a provision that, notwithstanding any rule of law with respect to agreements between solicitors and clients, it should be unlawful for the solicitor acting on behalf of an injured party to make with his client any agreement providing for any remuneration, or the giving to him of any other consideration than payment of his costs, as taxed. The Bill included, also, a provision that if before or after the commencement of proceedings an agreement were arrived at as to the sum to be paid to the injured party, the solicitor should forthwith transmit to the injured party a memorandum signed by him setting out the total amount to be paid by the person liable, and all other terms of the settlement or compromise, and in particular the portion, if any, included for costs. The Bill then provided that the costs were to be taxed in every case, and that the solicitor was not to retain anything beyond his solicitor and own client taxed costs.

The Council recognised that the clauses had been inserted for the purpose of protecting those whose only introduction to their solicitors may be through the pressure brought to bear upon them by the agents of so-called legal aid societies. It seemed to the Council, however, going too far to make it illegal in any case arising out of a road accident for a solicitor in any circumstances to receive anything more than taxed costs. The Council, therefore, placed themselves in touch with the mover of the Bill and with the Lord Chancellor's Secretary. The Master of the Rolls also was good enough to interest himself in the matter. He considered the views of the Council carefully, and ultimately, at their instance, stated in the House of Lords that they did not agree the clause regarding remuneration, and if and when the Bill was reintroduced it was hoped that it would be possible to frame a new clause which would meet the objections felt by the Council to the clause as drafted.

Lord Danesfort has reintroduced the Bill with the clauses referred to omitted, and has stated that they have been omitted in deference to the wishes of the Council.

Corporation Pretending to be a Solicitor.

The Council found themselves in the earlier portion of the year under review called upon to prosecute under s. 46 of the Solicitors Act, 1932, a debt-collecting organisation which had been formed into a limited liability company The summons was heard by one of the Metropolitan stipendiary magistrates and was dismissed by him on the ground that in his opinion only an individual and not a corporation could be convicted under the section. The Council appealed and the appeal was heard by a Divisional Court in November, 1933, and dismissed, the opinion of the magistrate being affirmed.

The Council took the view that legislation should be introduced in the public interest and in the interest of the profession to prohibit corporations from acting as solicitors and they intimated their opinion to the Lord Chancellor and requested him to introduce legislation accordingly. The Lord Chancellor at once gave instructions for the preparation of a Bill. Subsequently his lordship introduced it into the House of Lords and it passed through all its stages in that House before the Easter Recess. It has been sent to the Commons and by them has been referred to a Standing Committee.

The Council expressed to the Lord Chancellor their thanks for his most influential and valuable assistance.

Preparation of Leases by Unqualified Persons.

At the instance of the Council, an unqualified person was prosecuted before the magistrates at Hastings (under s. 47 of the Solicitors Act, 1932) for preparing for profit a document described as a lease. The lease had been signed but not sealed, but the magistrates, in view of the fact that it purported to be a lease, considered themselves justified in convicting the defendant. At his instance, however, they stated a case for the Divisional Court.

The appeal was heard by the Divisional Court (before Hewart, L.C.J., Avory and Lawrence, JJ.), and was dismissed, Lawrence, J., dissenting.

Solicitor Sharing Profit Costs with Unqualified Persons.

This question has been the subject of special consideration by the Professional Purposes Committee during the past year. The Council, acting upon a report of that Committee, caused the following notice to be inserted in The Law Society's "Gazette" for March last :—

> "The Council have recently had occasion to consider this question in detail and they have come to the conclusion that the following are established principles :—
>
> "That subject to the exceptions mentioned below :—
>
> "(1) Having regard to s. 51 of the Solicitors Act, 1932, a solicitor cannot properly share with any unqualified person his profit costs in respect of contentious business ;
>
> "(2) It is also improper for a solicitor to share with

an unqualified person his profit costs in respect of non-contentious business.

"The exceptions to the above rules are:—

"(A) A solicitor carrying on practice on his own account can pay an annuity or other sum out of profits to a retired partner, or the dependents or legal personal representatives of a deceased partner (*Aubin* v. *Holt*, 25 L.J. Ch. 36; *Re Flavell*, 25 Ch. D. 89).

"(B) A solicitor can agree to pay to a clerk in his employment a commission on business introduced (*Ex parte Joyce*, 4 Ch. D. 596; *Lake* v. *Bartlett & Gluckstein*, 37 T.L.R. 316), but in the case of an unadmitted clerk the Council disapprove of any agreement which makes the payment of commission a term of his employment.

"(C) A solicitor, who has agreed in consideration of a salary to do the legal work of an employer who is an unqualified person, may agree with such employer to set off against the salary so paid or payable to him and the proper office expenses incurred by such employer, and to the extent of such salary and expenses, his profit costs received in respect of contentious business from the opponents of such employer and the costs paid to him, as the solicitor for such employer, by third parties in respect of non-contentious business.

"The Council desire to direct the attention of members to these principles and to the fact that, in their opinion, any solicitor who infringes them may render himself subject to proceedings under s. 5 of the Solicitors Act, 1932."

Touting and Undercutting.

This matter formed the subject of a somewhat lengthy debate at the Annual Provincial Meeting of the Society at Oxford in September last, and the President promised that it should receive special attention. Accordingly, as soon as the Council re-assembled after the Long Vacation, they referred it to the Professional Purposes Committee. That Committee, in due course, reported to the Council, and as a result the Council caused the following notice to be inserted in the March issue of the Society's *Gazette*:

"The Council have considered these matters and desire to make the following observations for the attention of members.

"Touting is an offence in respect of which proceedings under s. 5 of the Solicitors Act, 1932, can be and have been taken successfully.

"With regard to undercutting the Council take the view that the acceptance by a solicitor of remuneration at less than the statutory or customary rate with the object or result of attracting to the solicitor concerned business which might not otherwise reach him, constitutes the offence of touting.

"Each case must depend on its own facts, but in the vast majority of cases, and particularly those arising in districts where an agreed minimum scale is in force, undercutting can have no object or result other than the attraction of business, and therefore the following general principle may be laid down, viz.: that the offence of touting is committed by a solicitor who by his conduct directly or indirectly holds himself out or allows himself to be held out (not necessarily by name) as being prepared to do professional business at less than the scale of charges generally recognised in the area where the solicitor practises.

"The Council will accordingly be prepared to investigate and deal with any specific complaint of undercutting or touting which may be brought to their notice."

Registration of Title to Land.

The Lord Chancellor has appointed a committee to examine the procedure laid down in the Land Registration Act, 1925, ss. 120 and 122, for the purpose of ascertaining whether that procedure is apt for the purpose for which it is designed, particularly in respect of the periods of notice (not less than ix months and not more than eighteen months) specified in para. (i) of s. 122, to be given to the Council of any county that registration of title to land is to be made compulsory within the area of that county. It has been referred to the committee, also, to undertake a preliminary survey in the circumstances as they now are, so that the Lord Chancellor may consider whether, at the appropriate time, he should begin to take any such preliminary steps as are contemplated by the section, and if so whether there is any particular area where circumstances render it peculiarly appropriate that a compulsory order should be made.

Paragraph (xi) of s. 122 provides that not more than one order, made otherwise than at the instance of a county council, is to be made within a period of eleven years from the 1st January, 1926.

The committee is under the chairmanship of Lord Tomlin, and the Council were invited to tender evidence. They appointed Mr. Philip R. Longmore, of Hertford, to represent them, who informed the committee that, in the opinion of the Council—

(1) The procedure laid down in ss. 120 and 122 of the Land Registration Act, 1925, is apt for the purpose for which it is designed.

(2) If it is shown to be in accordance with the wishes of the public and for their convenience that an order should be made, then that such order should be with regard to the County of Middlesex, in view of the fact that it would render the Middlesex Deeds Registry unnecessary, and that a considerable portion of the County of Middlesex has already been developed for building purposes. So far as the Council are advised at the present time no expression of opinion in favour of compulsory land registration has been made.

(3) Failing any spontaneous expression of a wish for compulsory registration in any county or county borough, no orders be made, until sufficient time has been allowed for ascertaining the efficiency of the scheme embodied in the Acts of 1925.

(4) Registration could not be conveniently established throughout the country until there is in existence an up-to-date cadastral map which could only be prepared and kept up to date at very great expense.

The Associated Provincial Law Societies passed a resolution deprecating the extension of any system of compulsory registration of title in any area unless there is a genuine and spontaneous demand from that area for the formation of a register. Mr. L. S. Holmes, of Liverpool, gave evidence before the Committee accordingly.

Bar Etiquette: General Retainer Rules.

The General Council of the Bar have revised the Rules as to retainers and have submitted them to the Council for their approval. They state that the rules have been modified to give effect to the suggestions made by the Council in 1931. The rules have been referred to a special committee for consideration and report.

Proceedings under the Solicitors Act, 1932.

The forty-fifth Annual Report of the Disciplinary Committee constituted under the Solicitors Act, 1932, is included in the Appendix to the Report, and a reference to this Report will show that on the application of the Society the names of ten solicitors, who had previously been convicted on indictment and sentenced to terms of imprisonment, were struck off the Roll by order of the Committee; that on the application of private individuals and of the Society the names of twelve solicitors were struck off the Roll and six other solicitors were suspended from practising and ordered to pay costs; that in one case the Committee found that as the conduct of the solicitor was deserving of censure he was ordered to pay the costs; that in one case the solicitor was found guilty of professional misconduct, but having regard to the special circumstances of the case they were of opinion that justice would be met by ordering him to pay the costs; that in two cases the Committee found that whilst acquitting the solicitors of professional misconduct the applications were justified and in each case the solicitor was ordered to pay the costs; and that in one case the Committee, whilst acquitting the solicitor of professional misconduct, found that he had acted improperly and that his action had given ground for the proceedings, and the solicitor was ordered to pay one-half of the costs.

Five unqualified persons and one uncertificated solicitor have been convicted for offences under s. 46 of the Solicitors Act, 1932. In three cases the summonses were withdrawn after apology had been made, and five further summonses were dismissed (one of them under the Probation of Offenders Act, 1907, on payment of costs). In one case the summons was dismissed with costs against The Law Society, and in another case The Law Society appealed to the Divisional Court against the dismissal of a summons under s. 46, but the appeal was dismissed with costs.

One conviction was obtained for an offence under s. 47 of the Solicitors Act, 1932, and in one other case the defendant appealed against his conviction, but the Divisional Court dismissed the appeal with costs.

Twelve applications under s. 52 of the Solicitors Act, 1932 (for leave to employ solicitors struck off or suspended from practice), were considered by the Council, who refused one and granted permission in eleven cases for periods of six or twelve months.

The Council considered thirty applications by articled clerks under s. 21 of the Solicitors Act, 1932, for permission to hold office during articles, and the Master of the Rolls declined to make any order in the one case which the Council did not approve.

The Council considered seventy-one applications for the issue of a practising certificate under s. 38 of the Solicitors Act, 1932, and refused nine. On appeal from their decision

in one case the Master of the Rolls was not prepared to make an order for the issue of the certificate.

As indicating the magnitude of the work undertaken by the Professional Purposes Committee, it is convenient to mention here that that Committee dealt, during the period under review, with approximately 1,500 applications affecting the practice and etiquette of the profession.

Parliamentary News.

Progress of Bills.

House of Lords.

Administration of Justice (Appeals) Bill.
Reported, without Amendment. [14th June.
Betting and Lotteries Bill.
Read Third Time. [19th June.
Cotton Manufacturing Industry (Temporary Provisions) Bill.
Amendments reported. [20th June.
Darlington Corporation Bill.
Read Third Time. [19th June.
Dundee Corporation Order Confirmation Bill.
Read First Time. [14th June.
Edinburgh Corporation Order Confirmation (No. 2) Bill.
Read Third Time. [14th June.
Licensing (Permitted Hours) Bill.
Read Third Time. [20th June.
London, Midland and Scottish Railway Bill.
Reported, with Amendments. [13th June.
Maidstone Waterworks Bill.
Committed. [13th June.
Mexborough and Swinton Traction (Trolley Vehicles) Provisional Order Bill.
Read First Time. [19th June.
Middlesex County Council Bill.
Read Third Time. [14th June.
Ministry of Health Provisional Order Confirmation (Leek) Bill.
Read Third Time. [19th June.
Ministry of Health Provisional Order Confirmation (South Middlesex and Richmond Joint Hospital District) Bill.
Read Third Time. [20th June.
Ministry of Health Provisional Order Confirmation (Stoke-on-Trent) Bill.
Read Third Time. [19th June.
Ministry of Health Provisional Order Confirmation (Wey Valley Water) Bill.
Read Third Time. [20th June.
Ministry of Health Provisional Order Confirmation (Weymouth and Portland Joint Hospital District) Bill.
Read Third Time. [19th June.
Ministry of Health Provisional Order Confirmation (Wycombe and District Joint Hospital District) Bill.
Read Third Time. [19th June.
Newcastle-upon-Tyne Corporation Bill.
In Committee. [20th June.
Protection of Animals (Cruelty to Dogs) (Scotland) Bill.
Reported, without Amendment. [20th June.
Ramsgate Corporation Bill.
Reported, with Amendments. [20th June.
Renfrewshire County Council (Eastwood and Mearns) Water Order Confirmation Bill.
Read First Time. [14th June.
St. Helen's Corporation (Trolley Vehicles) Provisional Order Bill.
Read First Time. [19th June.
Southend-on-Sea Corporation (Trolley Vehicles) Provisional Order Bill.
Read First Time. [19th June.
Statutory Salaries (Restoration) Bill.
Read Third Time. [20th June.
Trustee Savings Banks (Special Investments) Bill.
Read Second Time. [20th June.
Unemployment Bill.
Read Third Time. [20th June.
Walthamstow Corporation Bill.
Reported, with Amendments. [20th June.

House of Commons.

Architects (Registration) Bill.
Read First Time. [19th June.
Debts Clearing Offices and Import Restrictions Reprisals Bill.
Presented. [20th June.
Finance Bill.
Reported, with Amendments. [18th June.
Gas Undertakings Bill.
Read Third Time. [15th June.
Law Reform (Miscellaneous Provisions) Bill.
Read Second Time. [15th June.
London County Council (Money) Bill.
Reported, with Amendments. [14th June.
London Passenger Transport Board (Interim Financial Arrangements) Bill.
Read Third Time. [20th June.
Middlesex County Council Bill.
Read First Time. [14th June.
Milk Bill.
Reported, with Amendments. [20th June.
Mines (Working Facilities) Bill.
Reported, without Amendment. [19th June.
Ministry of Health Provisional Order Confirmation (Milford Haven) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order Confirmation (Morley) Bill.
Read Second Time. [20th June.
Ministry of Health Provisional Order Confirmation (Steyning and District Water) Bill.
Read Second Time. [20th June.
North Wales Electric Power Bill.
Read Second Time. [14th June.
Petroleum (Production) Bill.
Read Second Time. [19th June.
Pier and Harbour Provisional Orders (Clacton-on-Sea and Saint Mawes) Bill.
Read Second Time. [14th June.
Road Traffic Bill.
Reported, with Amendments. [14th June.
Southern Railway Bill.
Lords' Amendments considered, and agreed to. [15th June.
South West Suburban Water Bill.
Lords' Amendments considered, and agreed to. [15th June.
Taunton Corporation Bill.
Read Second Time. [20th June.
West Gloucestershire Water Bill.
Read Third Time. [19th June.
Workmen's Compensation (Coal Mines) Bill.
Lords' Amendments agreed to. [18th June.

Rules and Orders.

THE MINISTRY OF HEALTH (RATE OF INTEREST) AMENDMENT ORDER 1934, DATED JUNE 8, 1934, MADE BY THE MINISTER OF HEALTH, WITH THE APPROVAL OF THE TREASURY, UNDER SECTION 5 OF THE HOUSING ACT, 1921 (11 & 12 GEO. 5. C. 19).

78,628.

The Minister of Health in pursuance of the powers conferred on him by section 5 of the Housing Act 1921 and of all other powers enabling him in that behalf with the approval of the Treasury hereby orders as follows :—

1. This order may be cited as the Ministry of Health (Rate of Interest) Amendment Order 1934.

2. The rate of interest on advances made on or after the 1st day of July 1934 under section 1 of the Small Dwellings (Acquisition) Act 1899 * shall be three and three-quarters per centum per annum and the provisions of the orders specified in the schedule hereto relating to the rate of interest on advances under that Act shall be modified and have effect accordingly.

SCHEDULE.

The Ministry of Health (Rates of Interest) Order, 1921. †
The Ministry of Health (Rates of Interest) Amendment Order (No. 2), 1922. ‡
The Ministry of Health (Rate of Interest) Amendment Order, 1923. §
The Ministry of Health (Rate of Interest) Amendment Order, 1926. ‖
The Ministry of Health (Rate of Interest) Amendment Order, 1929. ¶
The Ministry of Health (Rate of Interest) Amendment Order, 1930. **
The Ministry of Health (Rate of Interest) Amendment Order (No. 2), 1930. ††
The Ministry of Health (Rate of Interest) Amendment Order, 1931. ‡‡
The Ministry of Health (Rate of Interest) Amendment Order, 1932. §§

* 62-3 V. c. 44.
† S.R. & O. 1921 (No. 1385) p. 309.
‡ S.R. & O. 1922 (No. 1326) p. 439.
§ S.R. & O. 1923 (No. 940) p. 362.
‖ S.R. & O. 1926 (No. 104) p. 633.
¶ S.R. & O. 1929 (No. 1025) p. 500.
** S.R. & O. 1930, No. 301.
†† S.R. & O. 1930 (No. 1081) p. 618.
‡‡ S.R. & O. 1931 (No. 979) p. 473.
§§ S.R. & O. 1932, No. 2.

The Ministry of Health (Rate of Interest) Amendment Order (No. 2), 1932. ||||
The Ministry of Health (Rate of Interest) Amendment Order (No. 3), 1932. ¶¶
The Ministry of Health (Rate of Interest) Amendment Order, 1933. ***

|||| S.R. & O. 1932, No. 254. ¶¶ S.R. & O. 1932 (No. 909) ,p. 537.
*** S.R. & O. 1933 (No. 425) p. 864.

THE SUPREME COURT FEES (AMENDMENT) ORDER, 1934. DATED JUNE 8TH, 1934.

The Lord Chancellor, the Judges of the Supreme Court and the Treasury, in pursuance of the powers and authorities vested in them, respectively, by section 213 of the Supreme Court of Judicature (Consolidation) Act, 1925,* section 305 of the Companies Act, 1929,† and sections 2 and 3 of the Public Offices Fees Act, 1879,‡ Do hereby, according as the provisions of the above-mentioned enactments respectively authorise and require them make, advise, concur in, sanction and consent to, the following Order :—

1. A Fee referred to by number in this Order means the Fee so numbered in Schedule I to the Supreme Court Fees Order, 1930.§

2. The following Fee shall be substituted for Fee No. 56 :—

First column.	Second column.	Third column.
Item.	Fee.	Document to be stamped.
	£ s. d.	
" 56 (*a*) On a Certificate of a Master or District Registrar, endorsed on an order, of completion of security—		
(i) by undertaking	0 5 0	The endorsement on the order.
(ii) in any other case	0 10 0	
(*b*) On every other certificate of a Master or District Registrar	0 10 0	The certificate.
Note.—This fee is payable in addition to the percentage fees prescribed above.		

3. The following Fee shall be substituted for Fee No. 62 :—

First column.	Second column.	Third column.
Item.	Fee.	Document to be stamped.
	£ s. d.	
" 62. On settling or approving		
(*a*) a recognisance, bond or guarantee	0 10 0	The recognisance, bond, guarantee or undertaking."
(*b*) an undertaking in lieu of a bond or guarantee	0 5 0	

4. Fee No. 64 is hereby revoked.

5. The following Fee shall be substituted for Fee No. 140 :—

First column.	Second column.	Third column.
Item.	Fee.	Document to be stamped.
	£ s. d.	
140. (*a*) On settling or approving a recognisance, bond or guarantee	0 10 0	The recognisance, bond, guarantee, or order.
(*b*) On taking a recognisance	0 10 0	
(*c*) On vacating a recognisance or bond or releasing a guarantee	0 10 0	

6. In the index at the beginning of Schedule I of the Supreme Court Fees Order, 1930, after the expression " Section XI ,, ,, on proceedings under the Companies Act, 1929 " there shall be inserted the following expression " Section XII ,, ,, on proceedings for the Reciprocal Enforcement of Judgments."

7. After Fee No. 150 there shall be inserted the following new section and fees which shall stand as Section XII and Fees Nos. 151, 152, 153 and 154.

SECTION XII.

Reciprocal Enforcement of Judgments.

1. Fees Nos. 151, 152, 153 and 154 are payable in respect of applications connected with the reciprocal enforcement of judgments under Part II of the Administration of Justice Act, 1920,* and the Foreign Judgments (Reciprocal Enforcement) Act, 1933.†

2. Fees in other Sections of this Schedule are payable on proceedings relating to the reciprocal enforcement of judgments, as far as they are applicable.

First Column.	Second column.	Third column.
Item.	Fee.	Document to be stamped.
	£ s. d.	
151. On filing affidavit in support of application ..	0 10 0	The affidavit.
152. On sealing a summons for leave to register ..	0 10 0	The filed copy.
153. On entering or sealing an order for registration	0 10 0	The order.
154. On a certified copy judgment	0 10 0	The copy Judgment.

8. This Order may be cited as the Supreme Court Fees (Amendment) Order, 1934.

Dated the 8th day of June, 1934.

Sankey, C.
Hewart, C.J.
Hanworth, M.R.
F. B. Merriman, P.
Lords Commissioners of His Majesty's Treasury. } *Austin Hudson*, *Walter J. Womersley*.

* 10–1 G. 5, c. 81. † 23–4 G. 5, c. 13.
‡ 42–3 V. c. 58. § S.R. & O. 1930 (No. 579) p. 1728.

Societies.

Gray's Inn.

GRAND DAY.

Thursday, the 14th of June being the Grand Day of Trinity Term, at Gray's Inn, the Treasurer (Master G. D. Keogh) and the Masters of the Bench entertained at dinner the following guests :—His Excellency The Swiss Minister, The Right Hon. Earl Buxton, G.C.M.G., The Right Hon. Viscount Goschen, G.C.S.I., G.C.I.E., C.B.E., The Right Hon. Lord Tomlin, The Hon. Mr. Justice Langton, O.B.E., General Sir Archibald Montgomery-Massingberd, G.C.B., K.C.M.G., Sir Gerald Wollaston, M.V.O. (Garter Principal King of Arms), Sir Herbert Cunliffe, K.C., The Astronomer-Royal (Mr. H. Spencer-Jones, F.R.S.), Mr. H. Macbeth-Raeburn, R.A., Mr. A. E. W. Mason. The Benchers present, in addition to the Treasurer, were :—The Right Hon. Sir Dunbar Plunket Barton, Bart., K.C., Mr. Herbert F. Manisty, K.C., Mr. Edward Clayton, K.C., The Right Hon. Lord Atkin, Sir Montagu Sharpe, K.C., The Right Hon. Lord Justice Greer, Mr. R. E. Dummett, The Right Hon. Lord Thankerton, The Right Hon. Lord Greenwood, K.C., The Hon. Vice-Chancellor Sir Courthope Wilson, K.C., Sir Walter Greaves-Lord, K.C., M.P., Mr. Bernard Campion, K.C., Mr. James Whitehead, K.C., Mr. R. Storry Deans, Mr. A. Andrewes Uthwatt, Mr. Noel Middleton, Mr. N. L. C. Macaskie, K.C., Mr. W. Trevor Watson, K.C., Mr. Harold Derbyshire, M.C., K.C., Sir Albion Richardson, C.B.E., K.C., and the Preacher (The Rev. Canon F. B. Ottley, M.A.).

Legal Notes and News.

Honours and Appointments.

The Lord Chancellor has made the following appointments in his department : Mr. A. J. N. PATERSON, Barrister-at-Law, to be Legal Clerk ; and Mr. VERNON HARINGTON, Barrister-at-Law, to be Private Secretary to the Lord Chancellor and to the Permanent Secretary, and Deputy Serjeant-at-Arms in the House of Lords, in the place of Mr. Paterson.

Sir Hilton Young, the Minister of Health, has appointed Mr. C. F. ROUNDELL, C.B.E., of the Ministry of Health, to be a member (vice Mr. N. B. Batterbury) of the Departmental Committee appointed in July, 1933, on the cost of hospitals and other public buildings.

Mr. J. A. W. SAINSBURY, M.A., LL.B., Assistant Solicitor at Grimsby, has been appointed Legal Assistant in the Town Clerk's Department, Bromley. Mr. Sainsbury was admitted a solicitor in 1933.

Mr. E. PARRY EVANS, Assistant Solicitor to the Council, has been appointed Deputy Town Clerk of Kensington. Mr. Parry Evans was admitted a solicitor in 1924.

Mr. G. E. MALLEY, of Birkenhead, is recommended for appointment as Assistant Solicitor to Wakefield Corporation.

Professional Announcements.

(2s. per line.)

Mr. F. W. FISHER BROWN carrying on business as "Indermaur & Brown," at 22, Chancery-lane, W.C.2, announces that his said business has been amalgamated with that of Messrs. Boxall & Boxall, of 22, Chancery-lane, W.C.2, and that he has joined the last-mentioned firm by whom the amalgamated businesses will continue to be carried on.

THE SOLICITORS' MORTGAGE SOCIETY, LTD. (formed by Solicitors for Solicitors), invites particulars of FUNDS, or SECURITIES. Apply, The Secretary, 20, Buckingham-street, Strand, W.C.2. Telephone No. Temple Bar 1777.

LOCAL GOVERNMENT OFFICERS' SUPERANNUATION ACT, 1922.

Sir E. Hilton Young, the Minister of Health, received a deputation from the General Council of the Trade Union Congress. The deputation was introduced by Mr. George Gibson, and the speakers were Mr. Harold Clay, Mr. George Dean, Mr. McKinley, Mr. Moyle, Mr. E. P. Harries, Miss Grey, Miss Brocklehurst.

The object of the deputation was to express to the Minister the desire of the General Council for legislation to make the Local Government Officers' Superannuation Act of 1922 compulsory upon all local authorities, with provision for a ballot in the case of each local authority regarding the application of the Act to manual workers. The deputation also drew the attention of the Minister to a number of points in which their experience suggested that amendment of the Act was desirable.

The Minister said in reply that he was glad to have an opportunity of informing himself by deputation of the views of the General Council. In the present pressure on Parliamentary time, the prospects of securing legislation largely depended on the framing of a Bill which would be, in principle, uncontroversial. He would welcome the good offices of the Council in attaining this end.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.		EMERGENCY ROTA.	APPEAL COURT No. I.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE BENNETT. Non-Witness.
		Mr.	Mr.	Mr.	Mr.
June	25	Andrews	Blaker	*Andrews	Ritchie
,,	26	Jones	More	More	Andrews
,,	27	Ritchie	Hicks Beach	*Ritchie	More
,,	28	Blaker	Andrews	Andrews	Ritchie
,,	29	More	Jones	*More	Andrews
,,	30	Hicks Beach	Ritchie	Ritchie	More

DATE.		GROUP I. MR. JUSTICE CROSSMAN. Witness. Part I.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
		Mr.	Mr.	Mr.	Mr.
June	25	*More	*Jones	Hicks Beach	Blaker
,,	26	*Ritchie	*Hicks Beach	Blaker	*Jones
,,	27	*Andrews	*Blaker	Jones	Hicks Beach
,,	28	*More	Jones	Hicks Beach	*Blaker
,,	29	Ritchie	*Hicks Beach	Blaker	Jones
,,	30	Andrews	Blaker	Jones	Hicks Beach

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 28th June, 1934.

	Div. Months.	Middle Price 20 June 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	112¾	3 10 11	3 4 2
Consols 2½%	JAJO	77¼xd	3 4 3	—
War Loan 3½% 1952 or after	JD	102½	3 8 4	3 6 3
Funding 4% Loan 1960-90	MN	113¾	3 10 4	3 4 3
Victory 4% Loan Av. life 29 years	MS	111¾	3 11 7	3 7 3
Conversion 5% Loan 1944-64	MN	117½	4 5 1	2 17 5
Conversion 4½% Loan 1940-44	JJ	109½	4 2 2	2 15 2
Conversion 3½% Loan 1961 or after	AO	102¾	3 8 2	3 6 11
Conversion 3% Loan 1948-53	MS	101	2 19 5	2 18 2
Conversion 2½% Loan 1944-49	AO	96	2 12 1	2 16 8
Local Loans 3% Stock 1912 or after	JAJO	90¾xd	3 6 1	—
Bank Stock	AO	357½	3 7 1	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	82xd	3 7 1	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	89xd	3 7 5	—
India 4½% 1950-55	MN	111	4 1 1	3 11 9
India 3½% 1931 or after	JAJO	90xd	3 17 9	—
India 3% 1948 or after	JAJO	77xd	3 17 11	—
Sudan 4½% 1939-73 Av. life 27 years	FA	115	3 18 3	3 12 3
Sudan 4% 1974 Red. in part after 1950	MN	110	3 12 9	3 3 10
Tanganyika 4% Guaranteed 1951-71	FA	111	3 12 1	3 3 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	101	2 19 5	2 18 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	108xd	4 3 4	3 5 5
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	106	3 15 6	3 13 11
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	100	3 15 0	3 15 0
Canada 4% 1953-58	MS	108	3 14 1	3 8 4
Natal 3% 1929-49	JJ	98xd	3 1 3	3 3 5
*New South Wales 3½% 1930-50	JJ	97¼xd	3 11 10	3 14 2
New Zealand 3% 1945	AO	97	3 1 10	3 6 8
Nigeria 4% 1963	AO	108	3 14 1	3 11 1
Queensland 3½% 1950-70	JJ	98xd	3 11 5	3 12 0
South Africa 3½% 1953-73	JD	102	3 8 8	3 7 2
Victoria 3½% 1929-49	AO	99	3 10 8	3 11 10
W. Australia 3¼% 1935-55	AO	99	3 10 8	3 11 4
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	90xd	3 6 8	—
Croydon 3% 1940-60	AO	97	3 1 10	3 3 4
Essex County 3½% 1952-72	JD	104	3 7 4	3 4 3
*Hull 3½% 1925-55	FA	101	3 9 4	—
Leeds 3% 1927 or after	JJ	90xd	3 6 8	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	102xd	3 8 8	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	77	3 4 11	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	90	3 6 8	—
Manchester 3% 1941 or after	FA	91	3 5 11	—
Metropolitan Consd. 2½% 1920-49	MJSD	95	2 12 8	2 18 4
Metropolitan Water Board 3% "A" 1963-2003	AO	92	3 5 3	3 5 11
Do. do. 3% "B" 1934-2003	MS	93	3 4 6	3 5 1
Do. do. 3% "E" 1953-73	JJ	97xd	3 1 10	3 2 9
Middlesex County Council 4% 1952-72	MN	110	3 12 9	3 5 2
‡ Do. do. 4½% 1950-70	MN	115	3 18 3	3 5 7
Nottingham 3% Irredeemable	MN	90	3 6 8	—
Sheffield Corp. 3½% 1968	JJ	103xd	3 8 0	3 7 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	108	3 14 1	—
Gt. Western Rly. 4½% Debenture	JJ	117½	3 16 7	—
Gt. Western Rly. 5% Debenture	JJ	128½	3 17 10	—
Gt. Western Rly. 5% Rent Charge	FA	127½	3 18 5	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	124½	4 0 4	—
Gt. Western Rly. 5% Preference	MA	112½	4 8 11	—
Southern Rly. 4% Debenture	JJ	104½xd	3 16 7	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	106⅝xd	3 15 1	3 12 6
Southern Rly. 5% Guaranteed	MA	124½	4 0 4	—
Southern Rly. 5% Preference	MA	111	4 10 1	—

*Not available to Trustees over par. ‡Not available to Trustees over 115.
†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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